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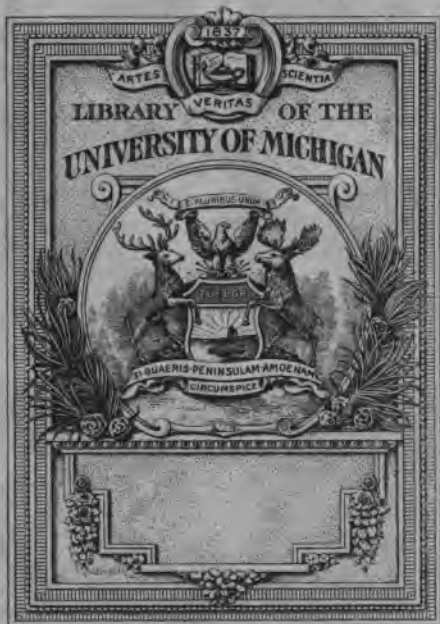
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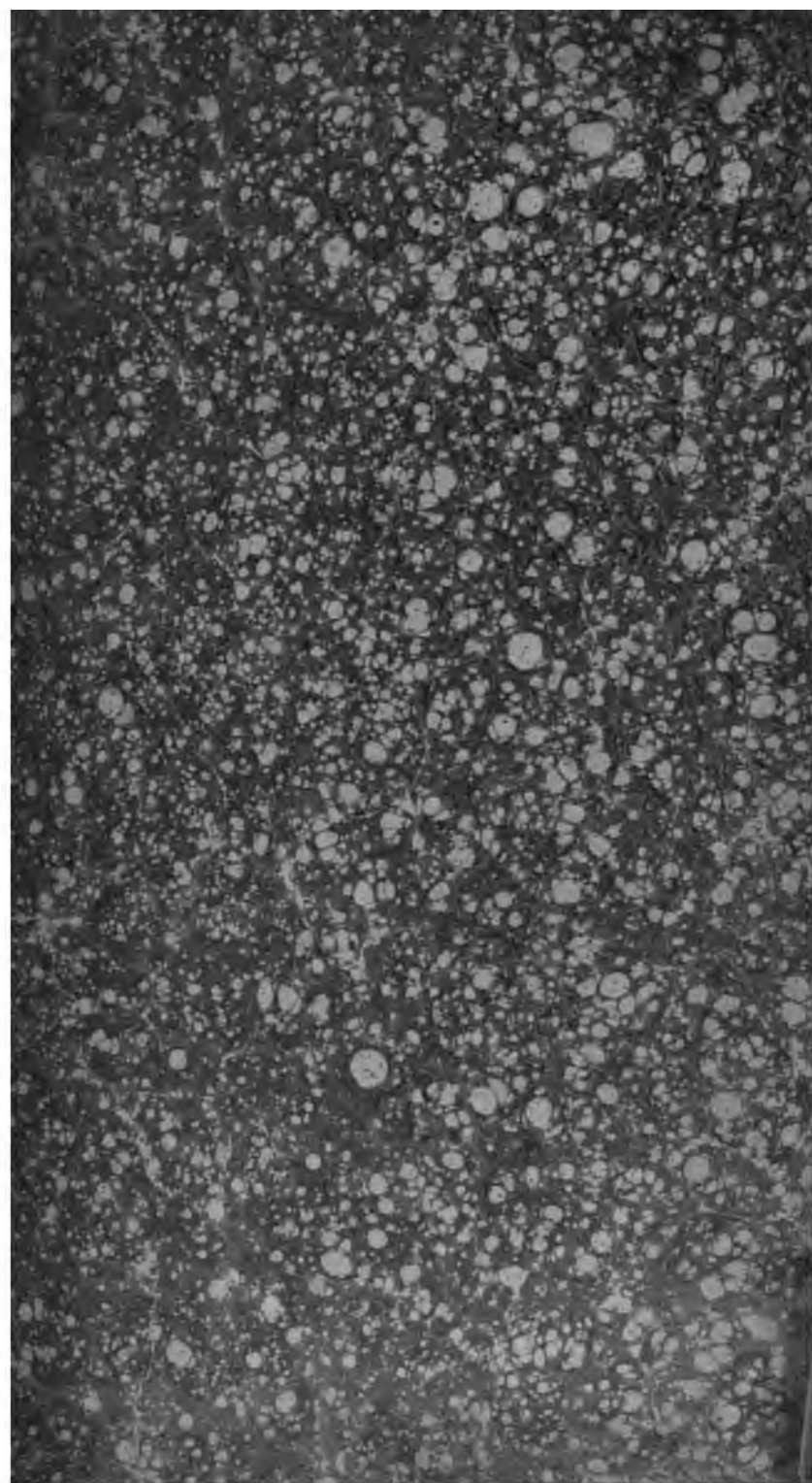
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Francis Wharton



Francis Wharton

PROCEEDINGS AND DEBATES

OF THE

CONVENTION

OF THE COMMONWEALTH OF PENNSYLVANIA, *Const. con*
1837-

TO PROPOSE

47299

AMENDMENTS TO THE CONSTITUTION,

COMMENCED AT HARRISBURG, MAY 2, 1837.

VOL. IX.

Reported by JOHN AGG, Stenographer to the Convention :

ASSISTED BY MESSRS. WHEELER, KINGMAN, DRAKE, AND M'KINLEY.

HARRISBURG:

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.....
1838.



PROCEEDINGS AND DEBATES
OF THE
CONVENTION HELD AT PHILADELPHIA.

MONDAY, JANUARY 8, 1836.

Mr. PAYNE, the senatorial delegate for the district composed of the counties of Venango, Warren, Jefferson, M'Kean, Potter and Tioga, elected in the place of Orlo J. Hamlin, Esq., resigned, appeared and took his seat in the convention.

A motion was made by Mr. Woodward, and read as follows, viz :

Resolved, That a committee be appointed to prepare and report a schedule to the amended constitution.

And on motion,

The said resolution was read the second time, considered and adopted ; and,

Ordered, That Messrs. Woodward, Scott, Banks, M'Sherry, Hays, Payne, Cox, Maclay and Farrelly be the committee for the purpose expressed in said resolution.

FIRST ARTICLE.

The Secretary proceeded to read the eleventh section of the first article, as follows :

SECTION 9. Each house shall choose its speaker and other officers ; and the senate shall also choose a speaker *pro tempore*, when the speaker shall exercise the office of governor.

There being no amendment offered to this section,

Mr. MEREDITH of Philadelphia, moved to dispense with the further reading of the sections, and that the convention proceed to the question in the report of the committee of the whole on the first article.

Mr. EARLE, of Philadelphia, objected, as he had a wish to move a new section.

Mr. MEREDITH said he had made inquiry among some gentlemen on the other side, and was not aware of any intention to make amendments. He was not of the opinion that any new section was required.

Mr. CLARKE, of Indiana, said he wished to offer an amendment.

The CHAIR then proceeded to put the question on the motion of Mr. MEREDITH and had counted the ayes—54; when

Mr. INGERSOLL, of Philadelphia, asked for the yeas and nays; whereupon,

Mr. MEREDITH withdrew his motion.

The Secretary then proceeded to read the twelfth section, as follows, viz:

SECTION 12. Each house shall judge of the qualifications of its members. Contested elections shall be determined by a committee to be selected, formed and regulated in such manner as shall be directed by law. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized by law to compel the attendance of absent members, in such manner, and under such penalties as may be provided."

There being no amendment offered to this section, the Secretary proceeded to read the thirteenth section, as follows, viz:

SECTION 13. Each house may determine the rules of its proceedings, punish its members for disorderly behaviour, and with the concurrence of two-thirds, expel a member, but not a second time for the same cause; and shall have all other powers necessary for a branch of the legislature of a free state."

Mr. CHAMBERS, of Franklin, rose to propose an amendment. He had voted, he said, for dispensing with the reading of the remaining sections of this article; but as it appeared that amendments were about to be offered, he would move to amend the report of the committee of the whole, by inserting, after section thirteenth, a new section to be called "SECTION 14," in the words following, viz:

"The legislature shall have no power to grant divorces, but may authorize the courts of justice to grant them for such causes as may be directed by law, provided that such laws be general, and uniform in their operation throughout the state."

Mr. CHAMBERS, in explanation of his amendment said, that he had been desirous to impose some restriction on the legislature on the subject of divorces. He had entertained some doubt whether his proposition would better come in the schedule, or here: but he believed the best place was in the first article which relates to the exercise of the legislative powers. The section which had just been read, declares that the legislature "shall have all powers necessary for a branch of the legislature of a free state;" and this, therefore, seemed to be the proper place for the insertion of any restriction. Divorce is an exercise of judicial power. It is an adjudication to dissolve a contract of the most important character, by reason of violations of the obligations imposed by that contract, on the part of one of the parties to it. It is a violation of contract, as well as of the civil relation of marriage. It is an annulling of a contract. Why, then, should this judi

cial power, in relation to this important contract, be exercised by the legislature? It is one of the maxims which lie at the foundation of the republican system, that the powers of government shall be equally distributed among the three departments—the legislative, the judicial, and the executive. At the commencement of our labors, this question was considered: it was conceded by all that such should be the division of powers, and that our government was predicated on that principle. The legislature, from the character of its organization, is not qualified to decide as to the law and the facts. There are those, however, who are competent to decide both as to law and fact. In our judicial department, evidence is to be obtained in conformity to established rules; and if the power of adjudication, in cases of divorce, be delegated to our courts of justice, there the causes are known to all, and are operative alike on all. The decisions are equal, and are common to all. It is the admitted policy of all enlightened countries, that the marriage contract is not to be dissolved for trivial causes. The stability of the marriage union, is regarded more than the contract itself; because, if regarded merely in the light of a contract, either party would have the power, with the consent of the other, to modify or dissolve it at pleasure. This the laws will not permit. It is a civil institution, established by the policy of all countries, involving the obligations of husband and wife, parent and child. In this state it is considered to be in the power of the legislature to provide for the dissolution of the contract. But it is a question which deserves our serious consideration, whether this power, which involves so many obligations, depending on the marriage contract, should not be exercised by a judicial tribunal. When the legislature exercises the power of granting divorces, it exercises it without any uniform rule, and frequently grants a divorce for causes, which, by a general law, have been delegated to the courts, and whenever this power is exercised by the legislature, it is too apt to be only for a certain class of society who can bring to bear on the legislature, the influence of their wealth, and their family and political connexions. It is a power, therefore, which in the legislature, is exercised only for one class, and not alike for all: the poor, and those who are without friends, cannot avail themselves of it. He would be disposed to require of the legislature to delegate this power to the courts, so that the causes might be made to operate alike in all cases. It was well known that in one case decided by the legislature, there were great abuses. It was not necessary for him to refer more particularly to the case. Many and frequent were the applications, and there were many abuses which required a remedy. In the last legislature, three divorces were thrown into a single bill, which the governor vetoed. The influence of the log-rolling system was felt even here.

The practice, in reference to divorces, varied in the different states. In Georgia and Mississippi, it required two-thirds of the legislature to grant a divorce. In Tennessee, Arkansas and Michigan, there was, in their constitutions a provision similar to that which he now offered, restricting the legislature from the exercise of this power, and giving it to the courts alone. If we do this, all divorces will be granted in conformity to law, and after a legal investigation, by a judicial tribunal, and of the evidence and judgment there will be a record. This proposition he had submitted after some consideration. He believed the change would be conducive to the public interest, as it would give greater stability to the marriage contract. He offered it as an amendment after the thirteenth section.

Mr. Cox, of Somerset, would briefly assign a reason why he should vote against this amendment. It was not because he was opposed to the principles which were contained in the proposition; but he thought this was not the proper place to introduce it. If any thing of this kind was to be engrafted in the constitution, it seemed to him, that it ought to be inserted in the bill of rights. The framers of the constitution of 1789-90, were of the opinion that all restrictions on legislative action ought to be made in the ninth article. There were various restrictions on the legislature to be found in that article. One of these was the clause which prohibits the legislature from passing any *ex post facto* law: another was, that which restrained the legislature from granting any patent of nobility: and there are several others. Sections which restrained the action of the legislature should be all comprehended in the ninth article. For this reason, he would vote against the amendment.

Mr. FLEMING, of Lycoming, viewed this as a very important matter, which the convention seemed to be about to pass over very lightly. The effect of this amendment would be to close the door of the legislative halls against all such cases. It might be well, before we adopt so important a change, to go into some inquiry, and to see if it would benefit the public interest. It did not require much forecast to understand that circumstances may arise, under which, for the sake of the public peace, as well as individual happiness, it would be proper to grant a divorce; yet, where the courts of law could not take cognizance of the matter, and where the action of the legislature ought to be brought into operation, the courts, in all their proceedings, being framed by statute, are obliged to observe certain limits, and may be compelled to stop short at the precise point, where the necessity for their interference begins to develop itself. The legislature would not grant the courts such full powers as would meet every case which might arise. He did not think that such advantages would result from the amendment as the gentleman from Franklin contemplated. He could not agree that the change would produce any advantage to the community,—that it would add to the peace of society, or make stronger that particular kind of contract. For the reasons therefore, which he had assigned, he should be obliged to vote against the amendment.

Mr. BANKS, of Mifflin, felt an inclination to support the proposition of the gentleman from Franklin. He would not add much to what had been said on this subject. But, while the powers of government were distributed among three distinct branches, the legislative, the executive and the judicial—it was right that the courts should have cognizance of these cases. In the course of his life, he had seen many cases of this kind, in which divorces had been passed by the legislature, which would not have been granted in the courts of justice. The legislature always took into consideration the propriety of granting this application, or refusing that.

The courts are the best places to obtain a judgment according to the merits of the case. There, the parties are heard *pro* and *con*, and the courts always grant relief where it is important that it should be granted. There was always a desire in the human heart to redress wrongs, wherever they exist. We have known cases of legislation where the cause was an improper one; and, I think (said Mr. B.) that the only tribunal

which ought to separate husband and wife, is the courts. I have known a hundred cases, in the course of my legislative experience, in which the courts of justice could never have granted a divorce, where the application to the legislature has obtained the object. He might quote cases which occurred in Montgomery county, in the city of Philadelphia, and in almost every county of the commonwealth, in which divorces had been granted by the legislature, in solemn mockery of this simple contract. He could not see that any injustice could possibly arise from the adoption of this amendment. Redress is readily granted in every other case of complaint, by the courts, and why should it not be granted in these cases?

Mr. Cox moved to postpone the further consideration of this amendment, until the report of the committee on the ninth article shall be considered.

Mr. CHAMBERS expressed his hope that the motion for postponement would not prevail. The exception which has been taken to the amendment by the gentleman from Somerset, is that this is not the proper place for its insertion. To the provision itself, the gentleman has no objection, but merely to the place. I apprehend (said Mr. Chambers) that this is the proper place. And the reason why there are two or three restrictions introduced into the ninth article, probably is, that they may not have attracted the notice of the convention, until the first article had been passed upon. From all the consideration he had been able to give to the subject, he had come to the conclusion, that the place he had selected, was the proper one, and he hoped the convention would agree to the amendment.

Mr. BIDDLE, of Philadelphia, rose, but disclaimed at this time any intention to enter into a full discussion of this subject. He did not know that we ought to depart from the course of the old constitution. The restrictions on the legislature, are all contained in the ninth article; that no *ex post facto* law, nor any law impairing contracts shall be made, &c. &c. All the restrictions are contained in that article. It is convenient that they should be together; and, if there was propriety in inserting this restriction in any part of the constitution, it ought to be made a part of the seventeenth section of the ninth article, which he had just read.

Mr. CUNNINGHAM said, the amendment ought not to be adopted in any part of the constitution. It was said that the legislature ought not to have this power. He had some experience in the matter. In many cases it was said that much injury had doubtless been done by the hasty action of the legislature on this subject. He had known fifty cases of divorces, and there had been a complaint only in one case. The amendment went to restrict the legislature. The law of 1814, embraced almost all the cases of legislative action on the subject of divorce. He had no doubt, that many cases might arise in which it would be indecorous to take an application for divorce into court. Females and others must necessarily, be examined as witnesses. In the cases examined before the senate, the galleries were cleared of their auditors. There might be many cases which it would be improper to take into a court of justice. It was necessary that the law should provide relief somewhere, and no objection had been stated against the law of 1814.

He had known cases in which the vote in favor of a divorce was almost

unanimous. The marriage contract was one of the highest sanction ; but, there were cases where it might be and ought to be dissolved. He was the chairman of the standing committee on two occasions, and it was the universal practice of the chairman to give notice to the parties, and to permit them to make their defence against any charges alleged against them ; and he had never heard any complaint of unfair or hasty proceedings. If he thought that injustice had been done in any case, he would put a restraint upon the action of the legislature ; but, that was not his opinion. He was, therefore, in favor of postponing the further consideration of this subject.

Mr. BELL said, he could easily conceive of cases in which the legislature ought to exercise the power of divorce. He was not in favor of the section ; but, he knew that there had been some just complaint as to the manner in which the legislature had exercised their power in this matter. It was a subject of just complaint that the legislature had, in some cases, taken this subject out of the courts and decided upon *ex parte* testimony.

Mr. HOPKINSON hoped, he said, that the subject would not be postponed. He trusted that it would meet with the serious attention of the convention. It was certainly very important in regard to the morality of the legislature, that this question should be settled. The constitution prohibited laws infringing upon the obligation of contracts. The marriage contract could not be avoided for any reason of misconduct. The question was a very simple one—whether the legislature or the courts of justice, should exercise the power of dissolving the marriage contract ? For what reason was the judiciary, which decides upon every other question of the violation of contracts, to be deprived of the power of acting upon these cases ? The question is, whether the subject is not a proper one for the examination of the courts of justice ? The gentleman says there has been no abuse of the power by the legislature.

Sir, the manner in which the legislature have exerted their power in granting divorces, has been a constant subject of complaint. A party wants a divorce, and he goes to the legislature and exercises his personal influence with that body to obtain it. The other party may be absent, and is tried without notice or opportunity for defence. A case lately happened, wherein the parents of two young persons procured their divorce, but the parties were again married afterwards. In that case, the legislature undertook to grant a divorce, upon the application of interested persons, without reference to the parties. There had been cases of divorce granted by the legislature upon the application of friends. Abuses were constantly practiced and were a perpetual subject of complaint. There was a case in which a gentleman was divorced from his wife, and knew nothing of it, until it was done. In courts of justice, such cases were tried upon evidence, and not upon rumor, and the proceedings could not be altogether *ex parte*, as in the legislature they had been, in many cases.

Will you permit the most solemn of all contracts to be broken by the legislature, through intrigue, and without proper evidence to justify the dissolution of the contract ? What is to become of the children in such cases ? Will the public take care of them ? It has been said that the

public concurred with the legislature in their action upon this subject, and had made no complaint of injustice. But, the public have nothing to do with the subject. It is wholly a matter of private concern. The contract must be held sacred and inviolable, without just cause for breaking it, whether the public assent or not, to its dissolution. There may be cases of individual hardship, in other contracts, but the legislature has not interfered. Can the legislature break a bond, on account of hardship? Can a man come to the legislature and say, I have a hard bargain, and wish to be discharged from my bonds? The legislature has no power to grant such an application. All such contracts must be brought before courts of justice. Ought we to be less careful of this sacred contract, than of other contracts? The preservation of the obligation of the marriage contract, interests the whole country? If there have been abuses of any kind practiced by the legislature, they have been in these cases.

In one case of hopeless insanity of thirty years' continuance a gentleman applied for a divorce, and it was refused; but, at the same session, a man, who had been twelve months absent from the country, was divorced upon the application of his wife. Management and intrigue prevailed with the legislature, in such cases, where a just and proper application was rejected. If you have a law providing that, for such and such crimes, a divorce may be obtained, it will enter into the contract and become a part of it. But, the law ought to be administered, as laws in relation to other contracts are, upon strict rules of evidence, and with uniformity and impartiality. That the legislature was an unfit repository for this power, and was likely to abuse it, he had no doubt; and, he was in favor of taking it from them.

Mr. REIGART said he thought the legislature should have all the necessary power in relation to this subject. Why should we assume that they are incapable of exercising it with discretion and impartiality, and deprive them of it? It had been fashionable here of late, to distrust the wisdom and integrity of the legislature on every subject, to endeavor so to restrict them and tie their hands, as to prevent any unlawful action in regard to many subjects. He was sorry to have the legislature charged with injustice and intrigue in regard to the subject of divorce. There had been, but one or two cases in forty years, in which the action of the legislature, on this subject, had been complained of. Why should we upon that ground, charge the legislature with injustice, management, and intrigue, and deny them the right of exercising any power over the subject? He knew the circumstances attending the application for a divorce on account of the insanity of one of the parties. The legislature had the firmness to reject that application, and they did so, upon the ground that insanity, being God's act, and not the fault of the party, afforded no ground for a dissolution of the contract.

The gentleman had given another instance in which he charged the legislature with acting upon *ex parte* testimony. He knew something of that matter and could assure the gentleman that the legislature, in that case, so far from proceeding *ex parte*, acted with the most perfect firmness and impartiality, and the fullest deliberation. After a deliberate and impartial hearing, they granted the divorce; and they did so, upon good and sufficient grounds. The cases referred to, afforded no grounds for alter-

ing the constitutional provisions on the subject of legislative powers. Before we make a change in the constitution on this subject, we had better have some reason for it. I know of no case, (said Mr. R.) in which the legislature have been guilty of bribery, of favoritism or intrigue, in granting divorces, as the gentleman from the city has alleged. It was true, that the legislature had political partialities, but they had no influence in divorce cases.

Mr. HOPKINSON said he was a little surprised that the gentleman should attribute to him the charge of bribery against the legislature. He had made no such charge, and had not used the word bribery.

Mr. REIGART said, the charge was implied.

Mr. WOODWARD said, this was a very difficult subject. There might have been some abuses by the legislature in their exercise of the power of granting divorces, but still it seemed necessary that they should have such a power. Doubtless the legislature had sometimes been betrayed into error, by the misrepresentation of the parties interested in making the application for a divorce. There was a difficulty in making a general law of divorce, which should meet every case that might arise; and therefore, it had been deemed proper to lodge a remedial power in the hands of the legislature over this subject, in order that relief might be afforded in cases of peculiar hardship, but, coming within the provisions for legal remedy through the courts of justice. Sometimes there may be cases in which the legislature ought to have the power of granting divorces.

A case occurred once in his own county, in which a female applied to him for advice. Her husband had been convicted of larceny and sent to the penitentiary. He was about to come out of the penitentiary, his term having nearly expired. A legacy had, in the mean time, been left to her, which she was anxious to save, for the support of herself and her children; and there was every reason to believe that her husband,—a worthless and intemperate vagabond—would soon sieze upon and squander it. The law afforded her no remedy in the case. What was she to do? Her husband's confinement could not be construed into desertion, and his term was about to expire. She was morally entitled to the means of supporting herself and educating her children. He drew up a petition to the legislature, for a divorce, and it was referred to the standing committee on the subject of divorce. The chairman sent word to the petitioner, that it was a case for the jurisdiction of the court, and that the committee would not consider it further. In that case the legislature certainly abused their power over the subject, by abandoning this poor woman to her cruel fate. The consequence of the refusal of the legislature to act on the case was, that this idle and drunken fellow soon squandered the little property of his wife and children; and, in his drunken revels, boasted that he had defeated the legislature, the law, and the attempts of his wife to keep from him her money. We cannot make a law that will reach every possible case where it may be necessary and proper to dissolve the marriage contract. If the power can be exercised safely and directly by the legislature, it should be reposed in that body.

If they did grant divorces where there was jurisdiction exercised by the court, he had no hesitation in saying it was wrong; for according to the

act of assembly the court ought to have jurisdiction. But, in such cases as could not be provided for by the law-making power, there should be a power left somewhere for the relief of the parties, nor did he conceive it to be in conflict with the laws of contract.

Mr. HOPKINSON explained.

Mr. WOODWARD knew that it had been expressed by high authority, that a divorce was the impairing of a contract,—but he did not think that the prohibition under the constitution of the United States, applied.

He did not see anything wrong in the court declaring that contract void. Under all the circumstances, it seemed to him, that it would not be prudent to deprive the legislature of all power over divorces. They might make a very wise and salutary law; but there, nevertheless, might arise cases where there would be no power to grant a divorce. It was for these reasons, that he was disposed to vote against the amendment.

Mr. MERRILL, of Union, said all contracts were made with the understanding that they should be dissolved by a law of the land. When, too, it was necessary to prove a contract, it ought to be done according to some known and general rule. The action of the legislature, was the action of will, and not a rule. He objected to such an irregular and unsafe course in reference to divorces, and desired to put these contracts, as well as all others, under the supervision of law. To put them in the power of the legislature, was, in his opinion, to jeopardize the rights of the community, and he would not do it. They could not try causes like the courts of judicature, for they could not have the facts before them. He was for leaving everything to the legislature that could consistently be left with them. He hoped the amendment would be adopted, and did not think it worth while to postpone the further consideration of it to put it in another place.

Mr. BELL said, an existing rule is law; and the only question was, in the event of an extraordinary case occurring, requiring an extraordinary remedy, ought the legislature therefore to be deprived of its power over the subject of divorces generally? He thought not. The learned judge, (Mr. Hopkinson) who was much skilled in matters of this kind, and the delegate from Franklin, had mentioned a case in which the legislature ought to have interfered, but did not, and thereby caused great unhappiness to the parties. The case of Stephen Girard had been referred to. Girard was married to a lady who, for thirty years, had been in a state of hopeless insanity. He wished to be relieved from the trouble to which he was unhappily subjected, and offered to support her in the most liberal manner, as he was greatly interrupted in carrying on his immense business, much to the injury of himself and the public interest. Here, then, was a case in which the legislature ought to have exercised their power, and granted a divorce. The legislature might, undoubtedly, abuse their power in some cases. There was a class of cases, however, over which the commonwealth had jurisdiction, and the legislature had given relief wherever they considered it due. We all knew that there were some cases in which the legislature had refused to interfere, because they believed them to come more properly within the jurisdiction of the courts. The statute book was every session covered with cases which came within the scope and general jurisdiction of the law. He would give his

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vote against the motion to postpone, in the hope that he would have an opportunity to move an amendment.

Mr. M'CAHEN, of Philadelphia county, said that if the motion to postpone should prevail, he would, at the proper time, offer an amendment to prevent log-rolling—to prohibit the legislature from passing an act containing more than one law. He wished each law to stand on its own merits. and then the public would not, in future, have so much cause to complain of so many bad laws being passed, as they had at present.

Mr. CUNNINGHAM rose and said :

Mr. President—I now rise to correct a mistake into which it appears to me, the respectable delegate from the city (Mr. Hopkinson) has made, in relation to an application to the legislature for a divorce, two or three years since. If I understand the gentlemen, he said that divorces were often granted on *ex parte* evidence; and he alluded to a case, the parties to which, then lived in the city of Philadelphia. Without giving the names of the parties, I will give you, Mr. President, a correct statement of that case as it occurred in the legislature.

At that time I had the honor (probably very unworthily) of being chairman of the committee on the judiciary system, in the senate. A petition was presented in the senate, signed by the young wife, accompanied by numerous documents, praying for a divorce, for reasons mentioned in the petition. The petition, according to usage, was referred to the committee on the judiciary system. The first time the committee met, after the reference of the petition, I was instructed by the committee, to notify the husband, that his wife had petitioned for a divorce. I did so. Soon afterwards, the husband appeared before the committee, either personally or by attorney, I do not recollect which. I know, however, he was at the seat of government attending to the matter. The committee appointed a day for the hearing of the parties and their proof, of which they had notice. Previous to the meeting of the committee, notice was given to the judiciary committee of the house of representatives, requesting them to meet the senate committee, to hear the case, so that a proper representation might be made to the house when the question should be discussed there. Mr. M'Culloch, of Chambersburg, who was then chairman of the house committee, and myself, were requested by the young lady's father, to hear her statement and reasons for petitioning for a divorce. We met her at her own room. No person was present but one gentleman, not connected with the parties. After hearing the story of the young lady, we made up our minds, at least I did, that she desired the divorce.

When the two committees met, a highly respectable and talented attorney attended for each of the parties, examined the evidence and addressed the committee. The bill passed by large majorities in both houses. I have heard, however, that the same parties, for good causes, no doubt, again united themselves in the bonds of matrimony, and I hope they will enjoy a long and happy life together. These are the facts of that case. It was not an *ex parte* case. All parties had notice, and they were heard both by themselves and counsel.

Mr. BIDDLE said, that his friend from Somerset (Mr. Cox) did not wish to destroy the amendment, his object being merely to postpone it till the

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convention reached the ninth article, in order that it might be incorporated with the other restrictions on legislative power. He trusted, therefore, that the gentleman's motion would prevail.

Mr. HOPKINSON explained. If a case were referred to the courts, the facts would be established by the rules of evidence, which would not be done in a committee room. The gentleman from Chester, had noticed only one of the cases to which he (Mr. H.) had referred, and that was, Stephen Girard. He, however, had mentioned another, where the wife had been twelve months in an asylum and the husband obtained a divorce.

He had adverted to these cases for the purpose of showing how inconsistent the legislature was, and that they had no rule to guide them. He did not want to attribute to them any base or dishonorable motives, any lobbying, or other unfair practices. But, he would say that he wished, in all matters of this kind, that the evidence should be investigated in the presence of both parties, and before the world. He disliked the idea of conversations being held with the parties apart, as improper impressions were sometimes made, although those who participated in them, had no other desire than to act honestly and fairly by the applicant or applicants. This mode of proceeding was entirely wrong. No one thought of going to the house of a juror to talk or hold a parley with him concerning the cause he might be trying. Everything was decided according to the rules of evidence. He fully concurred in the opinion expressed by the delegate from Luzerne, (Mr. Woodward) that the only justifiable ground on which a divorce could be asked, was a violation of the contract by one of the parties. He maintained that the parties should go to a proper tribunal, where the evidence in the case would be thoroughly examined, and justice done accordingly. There had, doubtless, been many hard cases of divorce granted by the legislature, on account of their having no uniform or general rule for their guidance. One divorce might be granted on one ground, and another on another. The legislature, for instance, might say, that in their opinion, conviction for a heinous offence, was a sufficient reason. Indeed, so long as there was no general rule adopted, instances would occur where great injustice had been perpetrated. A general law on the subject would remove the evil. Every one, then, would have their remedy. There was inequality and injustice done by the legislature. In a court, the rule and the law were the same for every body. All that he asked was, that this power should be no longer left to the legislature, to use as their caprice or bias might dictate.

Mr. FORWARD, of Allegheny, was once a member of the legislature, and while he had the honor of holding a seat, two bills were passed, granting divorces, under very peculiar and extraordinary circumstances, such, perhaps, as the courts, by some construction, might have reached, although they would have had much difficulty. He did not look on the marriage contract as an ordinary contract—in the light of a bond or note—as it did not touch the pecuniary affairs of the parties, so much as it did their happiness and welfare. There were many cases of divorce which could not be reached under the existing law, but which should be reached by the legislature. The inequality of the parties was contemplated by the legislature. The wife being the weaker, her existence was regarded as merged in that of the husband. The rights of one were said to be

surrendered, at least, in a great degree, to the other. Suppose the wife of a man who had emigrated to Pennsylvania from Ireland or England, or the state of Ohio, or any other state, should be barbarously treated by her husband, and she has no friends—no means of employing counsel, but she has the good fortune to have a petition drawn up and sent to the legislature, praying for a divorce, which is granted her. Was not this, he would ask, a relief conferred on the poorer classes of society? There were cases in which the parties were fully entitled to relief, but which they could not obtain except through the legislature. There were many cases not provided for, and respecting which, the law was entirely silent. He could mention several. Suppose a man to treat his wife badly in another and a distant state, and to bring her to Pennsylvania, and she desired to get divorced from him. How could she obtain a divorce? She could not go to court, for she had no testimony. The legislature, however, would grant her relief, if she was really entitled to receive it. He did not think that the legislature had acted hastily or rashly in any case; but, he believed there had been cases in which their power was abused, though not intentionally. So, also, there might be cases in which the courts had acted improperly. As there were many cases which the legislature could reach, but which a court could not, it appeared to him that the convention had better leave the matter where it was; or, at least, if they acted on it, let it be until the bill of rights came up.

Mr. CHAMBERS said that he was sorry to occupy so much time, but the question was one of much importance, and had considerable influence on the morals of the community. It had been said by the delegate from Lancaster, (Mr. Reigart) who had had some experience in the legislature, that it had not abused its power in relation to divorces—that it had not granted divorces which fell within the jurisdiction of the courts. He, Mr. C. concurred with the gentleman from Chester (Mr. Bell) that the greater part of the divorces granted by the legislature, would be found within the jurisdiction of the courts. He, Mr. C. knew of several cases of that character. There had been many cases of an *ex parte* character, where divorces had been granted without sufficient evidence. The reason why parties chose to go to the legislature in preference to the courts, to obtain divorces, was because they could not be obtained in the latter by collusion.

The gentleman from Mercer, (Mr. Cunningham) said that he had heard of no complaint. No doubt, because the object was attained by collusion, to the great injury of the morals of the community. The delegate had referred to the case of a young lady, who had been only a short time married, and lived in Philadelphia, when she applied for a divorce, and having obtained it, was shortly afterwards married again to the man from whom she was thus divorced; and he (Mr. Cunningham) stated his belief that the lady desired the divorce. Now, he (Mr. C.) on the contrary, had been told by the chairman of the committee of the other branch of the legislature, that he was satisfied that the young lady did not want to be divorced; and this was confirmed by the fact of the re-marriage afterwards.

With respect to what had been said by the gentleman from Allegheny, (Mr. Forward) of indigent and helpless females being able to procure divorces from the legislature, when they could not be obtained from the

courts. His (Mr. C.'s) object was not provide for this class of cases only, for which the legislature made provision ; but for the rich as well as the poor.

The gentleman had referred to cases where applications for divorces had been refused. Now, in his Mr. C.'s opinion, what was wanted was a uniform rule for all. There had heretofore been one set of rules for one case and another for another. Believing this amendment to be conducive to the public morals, he had introduced it in the hope that it would be adopted. He trusted that the amendment would not be postponed, as it would probably have to be discussed when we were more pressed for time. They might as well dispose of it at once.

Mr. BARNITZ, of York, said he believed that the appropriate place for the amendment would be in the ninth article. As at present advised, he would vote for it, but would wish it to be inserted in that article. There seemed to be a general understanding among gentlemen that all restrictions on legislative powers should be embraced in the ninth article. We might as well introduce all the other restrictions as this, which, perhaps, would affect other parts of the constitution. He feared that after all our pains to procure symmetry, we should at last have a shapeless mass. A gentleman who had preceded him had alluded to the constitution of the United States, in connexion with the constitution of Pennsylvania. There was a striking difference between them. The powers in the constitution of the United States are delegated powers.

In the grant of power, there should be an express limitation in the grant itself, if it is intended to limit it. In our first article we have embodied all the provisions granting powers to the legislature, and we have placed the reservations in the ninth article. There are no reservations of rights in the first article. They are all put in the ninth. Any other mode of proceeding will be productive of confusion.

Mr. DUNLOP said the question was now on postponing the subject. If we inserted the provision here, it could afterwards be transferred to the ninth article, when we put the instrument into proper shape ; but, if we vote it down now no one will think of offering it when we take up the ninth article. What odds does it make to us whether the legislature act rightly or wrongly in granting divorces ? They are not amenable to us for the manner in which they exercise their powers. The question for our consideration is, what powers they should have, and not how they exercise them. It was not for us to say whether the legislature act rightly or not in the exercise of this power.

If the legislature heretofore exercised their power wrongly, it was no reason why they should continue to do so. About half the cases, perhaps, they decided wrong and the other half right. In one case, it was true, a man coming home from abroad, found himself divorced from his wife. Other cases of hardship might have arisen in which the legislature granted no relief. There were some cases of excessive hardship which could not be reached by the courts ; but, if this power was left to the legislature, it would sometimes be exercised under improper influences. The man who has charge of a divorce bill makes it his own—his chicken;—he makes it a personal matter ; he solicits the votes of members for it, and the success of this bill becomes connected with that of other bills on very different subjects.

Propositions of mutual support, in regard to these different bills, were of ten made, and he was sorry to say, accepted. There were always half-a-dozen divorce cases before the legislature; and it was a matter, perhaps, of accident whether they were granted or not. He recollected one case in the legislature, when a divorce bill occasioned much excitement, and a hard quarrel between two members of the legislature. Both were very good men and much esteemed; but they quarrelled upon a divorce case, one of them thinking that it ought to pass, because it was from his county.

One of the evils of the system was, that it engrossed too much of the time of the legislature. If there was a contract on earth that was binding and sacred, it was marriage, and such contract ought not to be set aside by the legislature, without very strong grounds. If any kind of contract ought to be held sacred by the legislature it was this kind, and the constitution ought to provide for the inviolability of marriage as well as other contracts. It was our duty to the constitution of the United States, which we were all pledged to support, to see that the obligation of contracts was not impaired by state law.

Mr. READ moved the previous question, and the main question was ordered to be put.

The question being taken upon agreeing to the amendment, it was decided in the negative, yeas 53, nays 64, as follow:

YEAS—Messrs. Baldwin, Banks, Barndollar, Bigelow, Brown, of Northampton, Brown, of Philadelphia, Chambers, Chauncey, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Cleavinger, Cope, Craig, Crain, Crum, Cummin, Curil, Darrah, Denny, Dunlop, Fry, Fuller, Gilmore, Hastings, Hiester, High, Hopkinson, Houpt, Hyde, Ingersoll, Keim, Kennedy, Krebs, Magee, Mann, M'Call, M'Dowell, M'Sherry, Merrill, Merkel, Miller, Pennypacker, Riter, Royer, Russell, Scheetz, Shellito, Smith, of Columbia, Smyth, of Centre, Snively, Stickel, Weaver—53.

NAYS—Messrs. Agnew, Barclay, Barnitz, Bedford, Bell, Biddle, Brown, of Lancaster, Carey, Chandler, of Chester, Chandler, of Philadelphia, Cochran, Cox, Crawford, Cunningham, Darlington, Dickey, Dickerson, Dillinger, Donagan, Donnell, Earle, Farrelly, Fleming, Forward, Foulkrod, Gamble, Gearhart, Grenell, Harris, Hayhurst, Hays, Helffenstein, Henderson, of Allegheny, Henderson, of Dauphin, Jenks, Kerr, Konigsmacher, Long, Lyons, Maclay, Martin, M'Cahen, Montgomery, Overfield, Payne, Pollock, Porter, of Lancaster, Purviance, Reigart, Read, Ritter, Saeger, Scott, Sellers, Seltzer, Sill, Sturdevant, Taggart, Thomas, Todd, Weidman, Woodward, Young, Sergeant, *President*—64.

So the question was determined in the negative.

Mr. BELL said, as the subject was under discussion, he would beg leave to offer an amendment to the section. Some supposed that this was the wrong place for the provision and that it ought to be reserved for another part of the constitution; but, if this was not the proper place for it, it could be transferred. He hoped the amendment would meet with the candid consideration of the convention. He offered the following, as a new section:

SECT. 14. The legislature shall not have power to enact laws annulling the contract of marriage, in any case where, by law, the courts of this commonwealth are, or may hereafter be, empowered to decree a divorce.

And on the question,

Will the convention agree so to amend the said report?

The yeas and nays were required by Mr. BELL and Mr. GILMORE, and are as follow, viz :

YEAS—Messrs. Banks, Barclay, Bedford, Bell, Bigelow, Brown, of Northampton, Brown, of Philadelphia, Carey, Chambers, Chandler, of Chester, Chauncey, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Cleavinger, Craig, Crain, Crawford, Cummin, Curll, Darrah, Denny, Dunlop, Earle, Fleming, Fry, Fuller, Gearhart, Gilmore, Grenell, Hastings, Hayhurst, Hiester, High, Hopkinson, Houpt, Hyde, Ingersoll, Jenks, Keim, Kennedy, Krebs, Lyons, Magee, Mann, M'Cahen, M'Sherry, Merkel, Miller, Overfield, Payne, Pennypacker, Read, Riter, Ritter, Royer, Russell, Scheetz, Shellito, Sill, Smyth, of Centre, Snively, Stickel, Thomas, Weaver, Woodward—66.

NAYS—Messrs. Agnew, Barndollar, Barnitz, Biddle, Brown, of Lancaster, Chandler of Philadelphia, Cochran, Cox, Crum, Cunningham, Darlington, Dickey, Dickerson, Dillinger, Donagan, Donnell, Farrelly, Forward, Foulkrod, Gamble, Harris, Hays, Helffenstein, Henderson, of Allegheny, Henderson, of Dauphin, Kerr, Konigsmacher, Long, Maclay, Martin, M'Call, Merrill, Montgomery, Pollock, Porter, of Lancaster, Purviance, Reigart, Saeger, Scott, Sellers, Seltzer, Sturdevant, Taggart, Todd, Weidman, Young, Sergeant, *President*—47.

So the question was determined in the affirmative.

Mr. M'CAHEN offered, as an amendment, a new section, to be called the 15th section, as follows :

SECT. 15. The legislature shall not combine in any bill any two or more distinct and separate objects of legislation, or any two or more distinct appropriations to distinct objects, except appropriations to works belonging to, and carried on by, the commonwealth. And the object or subject of each bill or act shall be distinctly stated in the title thereof.

Mr. DARLINGTON hoped, he said, the gentleman would not persist in this proposition. When we came to the ninth article, it would be the proper time to consider it.

Mr. M'CAHEN said the minority of the committee on the ninth article was in favor of, and reported this amendment, and this was a proper place for it. He hoped it would meet the approbation of the convention, and this, he thought, was the appropriate time for offering it.

Mr. DICKEY thought this to be a very broad proposition, which if adopted must shackle the legislature very much. This subject had been reported by the committee on the ninth article, where, if it was to be adopted, it would properly belong. He thought, therefore, that we would gain but little by discussing it here; and, with a view of having it considered in its proper place, he moved to postpone this section until the ninth article of the constitution was taken up for consideration.

Mr. SCOTT said, if gentlemen would look at this first article, they would see that it prescribed the manner in which the members of the senate and house of representatives should be elected, and the qualifications of the persons to be elected; but in no part of it did it declare the extent of limitations which were to be placed on the legislative body. To introduce a section then of the kind proposed by the gentleman from the county of Philadelphia, would go to conflict with the whole aim and object of the article. It was upon this principle that he had already voted against two amendments, the principles of which he was not hostile to; and, as at present advised, he was inclined to believe that he should vote for them

when introduced in their proper place. For these reasons, he should vote in favor of postponing this section, and against all sections proposing restrictions on the legislature which might be introduced into this article. He trusted that those gentlemen who were in favor of imposing restrictions upon the houses of the legislature, would waive them until we reached the ninth article of the constitution, where they appropriately and legitimately belonged.

Mr. HAYHURST was opposed to the motion to postpone this section. We have been told over and over again, that amendments are not introduced in the proper place, yet we all know that we have a committee appointed to arrange the amendments which we make, and put them in their proper places. Then, where was the force in this objection, that amendments are not introduced in their proper place? He apprehended that there had been more time lost in discussing motions to postpone amendments which were not considered as being in their proper place, than it would have taken to pass an article of the constitution. Let us, then, not spend our time in the discussion of motions to postpone, but let us come up to the work at once. If it is proper that the amendment should be adopted, let us adopt it; and if it is not, let us reject it, and proceed to the section. He should not be particular as to where amendments were introduced, inasmuch as we have an able and learned committee, with a learned judge at its head, to arrange our amendments in proper order. All he should inquire was whether the amendments were proper to be introduced into the constitution? and he should pay very little attention as to where the amendments were introduced. He hoped no more time would be spent in the discussion of the motion to postpone, but let us adopt or reject it at once, and then take the vote, in case it is rejected, on the amendment proposed by the gentleman from the county of Philadelphia. All arrangements, he had no doubt would be made afterwards, by the learned committee, which was appointed to arrange the amendments.

Mr. BROWN, of the county of Philadelphia, thought that the quickest way for us to get through with our labors, was to vote directly upon the amendments which are submitted to our consideration, without making attempts to postpone them till a future time. He was surprised to think that the gentleman from the city of Philadelphia, (Mr. Scott,) should have fallen into such an error as to suppose that there were no restrictions placed on the legislature, in the first article of the constitution. Why, in the twenty-first section he found the following words: "no money shall be drawn from the treasury, but in consequence of appropriations made by law." Certainly this was a restriction upon the legislature. In article ninth, however, there was but one small section in all the article which spoke of restrictions upon the legislature. He had looked it through, and he had found but this section placing restrictions upon the legislative body, and that was "that the legislature shall not grant any title of nobility or hereditary distinction, nor create any office, the appointment to which, shall be for a longer term than during good behaviour." Then, when we found restrictions placed on the legislature, in the first article, and found but this one section speaking of restrictions on the legislature, in the ninth article, he took it that this was the most appropriate place for this amendment. This, in connexion with the argument

of the gentleman from Columbia, (Mr. Hayhurst) was, he thought, sufficient to induce a majority of this convention to vote against postponing this section.

Mr. EARLE thought it a matter of not much importance where we to adopt this amendment, and amendments of a similar nature, as he presumed the committee for the purpose of arranging the constitution, would put them all in their proper places. We have been told since the commencement of the session, to postpone certain matters until we read the ninth article, or till second reading. Now, when we have reached second reading, we are either told to wait till we get to the ninth article, or inquired of seriously why it was certain amendments were not proposed in committee of the whole. Now, the only difficulty with him in relation to postponing this subject until we reach the ninth article, was, that he was fearful we never would reach the ninth article. We are told that all our important restrictions are to be postponed until we reach the ninth article; and the moment we get near that article, as if we were afraid to encounter it, we recede from it; and he thought it extremely doubtful whether we ever reach it. If he was certain that we would reach it, and have time to consider the proposed restrictions, he should have no objections to having this matter postponed until that time. He thought, however, that taking both the constitution of Pennsylvania, and of the United States, for our guide, that it would be entirely proper for us to introduce this amendment into the first article.

The first article of the constitution of the United States, declares what congress may do and the ninth article declares what it may not do. But, in the first article of the constitution of our own state, the last four sections of that article, place restrictions on the legislature in some measure. Therefore, to insert this section where it is proposed, would be conforming to the existing constitution of our own state, as well as to that of the constitution of the United States. He hoped, therefore, that the motion to postpone might be rejected, and that the amendment would be adopted.

Mr. AGNEW said, that this was the first time that he had heard the constitution of the United States, likened to the constitution of Pennsylvania in this particular. The principles of that constitution are, that unless the powers are expressly delegated to congress, they have them not; but the reverse was the case in our constitution. The principles of our constitution is that whatever is not reserved in the instrument, is granted to the legislature, and, consequently, they have power to do all those things not forbidden by the constitution. He did think that the beauty and regularity of our constitution should be preserved, and that every section ought to be introduced at its proper place. If this was not the case, he would ask gentlemen what was the necessity of changing our rules, when we came to second reading? We changed the rules in order that we might take up the constitution, section by section, as it stood, that it might be passed upon in its proper order; yet now it appears that gentlemen are desirous of changing the order of business, and of introducing the amendments which were reported upon by the committee on the ninth article of the constitution. The subject was then discussed in the committee on the the ninth article, and a report made upon it; gentlemen being unwilling to wait a reasonable time, are desirous of forcing these amendments upon us in the first article of the constitution.

He thought this matter of changing, the order of proceeding entirely improper, and hoped the convention would not countenance it. If this is not done, we shall be kept continually in confusion, and our business will be very much retarded. This matter most certainly belonged to the ninth section, notwithstanding what had been said by the gentleman from the county of Philadelphia. It had been so considered by the convention heretofore, and was so considered by the committee on the ninth article, which reported this section. But says the gentleman from the county of Philadelphia, there is but one section in the ninth article, placing restrictions on the legislature. Why, the gentleman cannot have read that article with much care when he made such an assertion as this. He would ask the gentleman whether the section declaring that the right of trial by jury should remain inviolate, was not a restriction upon the legislature? He would ask whether the section declaring that the press should remain free, was not a restriction on the legislature? He would ask the gentleman whether the section declaring that the people shall be secure in their persons, houses, papers and possessions, from unreasonable searches, was not a restriction upon the legislature? In short, are not the greater portion of the sections of the ninth article, restrictions and prohibitions upon the legislature? The gentleman certainly had overlooked most of the sections of the ninth article, when he declared that there was but one section placing restrictions upon the legislature. This section, therefore, if it was proper that it should be adopted at all, most certainly belonged to the ninth article, and ought to be postponed until that article came up for consideration. But he desired to say a word or two on the propriety of adopting the amendment, proposed by the gentleman from the county of Philadelphia, viz: that no two subjects or objects of legislation should be embraced in one bill. Now, he supposed, that if an amendment of this kind was adopted, that great inconvenience would result from it, and, that the legislature and our courts of justice, will frequently be brought into collision in consequence of it.

If a provision of this kind is adopted, and the legislature passes a law in which is embraced two distinct subjects or objects of legislation, then it will be unconstitutional; and any suit brought under such law in a court of justice, must be set aside, because the law is unconstitutional. If you pass an amendment of this kind, where are you to leave the decision of this matter, whether any two matters which may be embraced in one bill, are distinct subjects or objects of legislation? Is it the legislature which is to decide as to whether there is really a difference between two subjects which may come up in one bill for legislation? Or, is it your courts of justice, which are to decide on the matter after the law is passed?

Is it your legislature which is to say that any two matters are distinct subjects or objects of legislation? or is it your courts of justice which are to declare laws thus passed, to be unconstitutional? He did not hold, that the courts could declare the law not to be a law of the land, although they had a right to decide that the act of the legislature must give way to the law of the land.

Well, under this section, in case it should be adopted, your legislature might unite two matters in a bill which they did not consider to be distinct subjects or objects of legislation; but your courts might be of a different opinion in relation to the matter; and here would be a difficulty which

never could be gotten over; and you would be placing it in the power of your courts to decide upon your laws, in perhaps almost every case, as to the fact whether there was such a difference between two matters embraced in them, as to make them unconstitutional.

Now, he wanted the gentleman from the county to tell him (because this was a part of the information which must determine this convention, either to reject or adopt this section.) what was meant by distinct subjects, or objects of legislation; and to point out how they were to discriminate, in all cases, as to what were to be considered distinct subjects, or objects of legislation. A subject may be composed of different parts; and he wanted to know, whether these parts were to be considered distinct subjects of legislation.

He considered it highly proper, that we should know what was to be considered as an integer, or a whole in this matter; and if the gentleman could find out and show us clearly what are distinct subjects or objects of legislation in all cases, then his amendment would be more intelligible than it was at present. He wished to have these distinct subjects defined and pointed out, so that there would be no mistake in relation to them; and until this was done, he feared the gentleman's amendment would only lead to ambiguity and confusion.

This matter of declaring that the legislature should not combine in one law, distinct subjects or objects of legislation, conveyed no definite idea to his mind. He might conceive of many subjects which might be composed of different parts, and the question with him would be, which you were to call the integer, and which were to be considered as distinct subjects of legislation. For instance, internal improvements was a subject of legislation.

Well, suppose you were about to grant aid to, or to charter different companies, for the purpose of making internal improvements in different parts of the state, would those different improvements be looked upon as different objects of legislation? Were you to consider the subject of internal improvements, as a distinct subject which must go in a bill by itself, or would you consider every one of the improvements, which it was the intention of the legislature to make at one time, a distinct subject of legislation? Because, accordingly as this was decided, your law was constitutional or unconstitutional. Are the courts to determine, that if the different improvements asked for in the state, were combined in one bill, that the law granting them was unconstitutional? Was this the power you were about giving to your courts? One court, too, may think one way in relation to this matter, and another court may think differently; and thus you will have laws constitutional and unconstitutional, according to the different opinions of the courts. He thought, therefore, that if the gentleman was desirous of introducing a proposition of this kind, he ought to be more explicit in the language of his amendment, and not leave it liable to be misconstrued, and made a matter of opinion between the legislature and your courts.

He would ask the gentleman from the county of Philadelphia, to point out to him, what were two distinct subjects or objects of legislation? If the gentleman would say in his amendment, that no two charters shall be combined in one bill, he could understand that, but he confessed he was not able to comprehend what was meant by the amendment, that no two distinct subjects or objects of legislation shall be combined in one bill.

He thought this matter of changing, the order of proceeding entirely improper, and hoped the convention would not countenance it. If this is not done, we shall be kept continually in confusion, and our business will be very much retarded. This matter most certainly belonged to the ninth section, notwithstanding what had been said by the gentleman from the county of Philadelphia. It had been so considered by the convention heretofore, and was so considered by the committee on the ninth article, which reported this section. But says the gentleman from the county of Philadelphia, there is but one section in the ninth article, placing restrictions on the legislature. Why, the gentleman cannot have read that article with much care when he made such an assertion as this. He would ask the gentleman whether the section declaring that the right of trial by jury should remain inviolate, was not a restriction upon the legislature? He would ask whether the section declaring that the press should remain free, was not a restriction on the legislature? He would ask the gentleman whether the section declaring that the people shall be secure in their persons, houses, papers and possessions, from unreasonable searches, was not a restriction upon the legislature? In short, are not the greater portion of the sections of the ninth article, restrictions and prohibitions upon the legislature? The gentleman certainly had overlooked most of the sections of the ninth article, when he declared that there was but one section placing restrictions upon the legislature. This section, therefore, if it was proper that it should be adopted at all, most certainly belonged to the ninth article, and ought to be postponed until that article came up for consideration. But he desired to say a word or two on the propriety of adopting the amendment, proposed by the gentleman from the county of Philadelphia, viz: that no two subjects or objects of legislation should be embraced in one bill. Now, he supposed, that if an amendment of this kind was adopted, that great inconvenience would result from it, and, that the legislature and our courts of justice, will frequently be brought into collision in consequence of it.

If a provision of this kind is adopted, and the legislature passes a law in which is embraced two distinct subjects or objects of legislation, then it will be unconstitutional; and any suit brought under such law in a court of justice, must be set aside, because the law is unconstitutional. If you pass an amendment of this kind, where are you to leave the decision of this matter, whether any two matters which may be embraced in one bill, are distinct subjects or objects of legislation? Is it the legislature which is to decide as to whether there is really a difference between two subjects which may come up in one bill for legislation? Or, is it your courts of justice, which are to decide on the matter after the law is passed?

Is it your legislature which is to say that any two matters are distinct subjects or objects of legislation? or is it your courts of justice which are to declare laws thus passed, to be unconstitutional? He did not hold, that the courts could declare the law not to be a law of the land, although they had a right to decide that the act of the legislature must give way to the law of the land.

Well, under this section, in case it should be adopted, your legislature might unite two matters in a bill which they did not consider to be distinct subjects or objects of legislation; but your courts might be of a different opinion in relation to the matter; and here would be a difficulty which

never could be gotten over; and you would be placing it in the power of your courts to decide upon your laws, in perhaps almost every case, as to the fact whether there was such a difference between two matters embraced in them, as to make them unconstitutional.

Now, he wanted the gentleman from the county to tell him (because this was a part of the information which must determine this convention, either to reject or adopt this section.) what was meant by distinct subjects, or objects of legislation; and to point out how they were to discriminate, in all cases, as to what were to be considered distinct subjects, or objects of legislation. A subject may be composed of different parts; and he wanted to know, whether these parts were to be considered distinct subjects of legislation.

He considered it highly proper, that we should know what was to be considered as an integer, or a whole in this matter; and if the gentleman could find out and show us clearly what are distinct subjects or objects of legislation in all cases, then his amendment would be more intelligible than it was at present. He wished to have these distinct subjects defined and pointed out, so that there would be no mistake in relation to them; and until this was done, he feared the gentleman's amendment would only lead to ambiguity and confusion.

This matter of declaring that the legislature should not combine in one law, distinct subjects or objects of legislation, conveyed no definite idea to his mind. He might conceive of many subjects which might be composed of different parts, and the question with him would be, which you were to call the integer, and which were to be considered as distinct subjects of legislation. For instance, internal improvements was a subject of legislation.

Well, suppose you were about to grant aid to, or to charter different companies, for the purpose of making internal improvements in different parts of the state, would those different improvements be looked upon as different objects of legislation? Were you to consider the subject of internal improvements, as a distinct subject which must go in a bill by itself, or would you consider every one of the improvements, which it was the intention of the legislature to make at one time, a distinct subject of legislation? Because, accordingly as this was decided, your law was constitutional or unconstitutional. Are the courts to determine, that if the different improvements asked for in the state, were combined in one bill, that the law granting them was unconstitutional? Was this the power you were about giving to your courts? One court, too, may think one way in relation to this matter, and another court may think differently; and thus you will have laws constitutional and unconstitutional, according to the different opinions of the courts. He thought, therefore, that if the gentleman was desirous of introducing a proposition of this kind, he ought to be more explicit in the language of his amendment, and not leave it liable to be misconstrued, and made a matter of opinion between the legislature and your courts.

He would ask the gentleman from the county of Philadelphia, to point out to him, what were two distinct subjects or objects of legislation? If the gentleman would say in his amendment, that no two charters shall be combined in one bill, he could understand that, but he confessed he was not able to comprehend what was meant by the amendment, that no two distinct subjects or objects of legislation shall be combined in one bill.

Suppose you embrace in one bill, charters for two companies to make internal improvements in your commonwealth, he would ask the gentleman from the county of Philadelphia, whether he would consider them two distinct subjects, or objects of legislation, and whether or not he considered them distinct in their nature?

If it was intended to prevent the granting of more charters than one in a single bill, why not say so in the amendment; and then it could be perfectly understood by every body. But to say that no two distinct subjects, or objects of legislation should be combined in one bill, he confessed was to him too ambiguous to be easily understood; and he was entirely opposed to introducing any thing into the constitution which was ambiguous, or any thing which might bring the legislature and the courts into collision.

Suppose, sir, that the legislature was about making appropriations to several objects of internal improvements; and suppose it appropriate ten thousand dollars to one railroad, ten thousand to another railroad, and five thousand to a third, were these appropriations to be considered different subjects or objects of legislation? Or were they to be considered as one object of appropriation? Certainly the character of the different appropriations were the same, but whether they could be considered as one subject, or object of legislation, he was unable to say. For these reasons he was opposed to this provision, and he hoped it would not be adopted.

Mr. M'CAHEN said, the gentleman had asked him what were two distinct subjects or objects of legislation. This he would answer in a word, by saying, that they were two different and distinct subjects, or objects of legislation.

With regard to the amendment, he thought it was demanded by the people, and that it would have a most salutary and healthful effect upon the legislation of our state. It would prevent that ruinous and corrupt system called log-rolling, which had been so often and so justly complained of. He had frequently before pointed the convention to the evils arising from this matter of making omnibus bills, and huddling every species of legislation into one act.

He need now only refer to one or two cases, to show the impropriety of this system. A few years ago the legislature passed a bill to open a road in Bedford county, and in one of the sections of the bill there was a provision, divorcing a man from his wife. During the last two or three years, it had been quite usual to pass laws embracing some half dozen of objects; and he believed there was one passed a year or two ago, incorporating some five or six companies for different purposes. Now, this was all entirely improper. If a measure had not merit enough of itself to warrant its passage in the legislature, without connecting it with five or six other subjects, for the purpose of giving it importance, it ought not to be adopted at all.

At the last session of the legislature a bill was passed, making appropriations to an immense amount, for a great variety of objects; many of which were very proper in themselves, but in consequence of the bill being overloaded with appropriations, the governor was compelled to veto

the whole. And the whole were lost, although the public service demanded that many of the appropriations should have been made. If there had been a provision of this kind, we would not have been left in this situation. He believed the proposition he had submitted, to be one which would have a tendency to do much good; therefore, he hoped it might be adopted.

Mr. FULLER regretted that the motion to postpone had been made, and thought that the gentleman who made it, must see now, that a great deal of time had been taken up in discussing this motion, which might have been employed more profitably in discussing the merits of the section. He trusted, therefore, that the gentleman from Allegheny would withdraw the motion to postpone; and if he would not, he hoped the motion might be negatived.

It appeared to him that the only question now for consideration was whether such a provision as this was proper or not. Then if it be proper to be inserted in any part of the constitution, it was proper to vote upon it now.

With respect to the propriety of adopting it, there could, in his judgment, be but one opinion in this body. Certainly it had been a subject of complaint for some years, that too many bills were coupled together in our legislature.

Accompanying this report he found the name of the gentleman from Northampton, (Mr. Porter) who was now absent; and he was certain, if that gentleman was present, he would advocate this proposition with force and great ability.

The gentleman from the county of Philadelphia had expressed a doubt whether we should ever reach the ninth article of the constitution. Now, he (Mr. F.) had no such fear, because he believed a majority of the convention were anxious that it should be reached; and he could not see on what the gentleman from Philadelphia county, founded his doubts. He believed that we would be enabled to get through with all the other articles of the constitution, and also consider the ninth article before we adjourned.

He trusted, therefore, that the motion to postpone, if not withdrawn, would be rejected, and that we would get a direct vote upon the section proposed by the gentleman from the county of Philadelphia.

Mr. DICKEY thought there was a good deal in the objections urged by his colleague, (Mr. Agnew) against the adoption of the section proposed by the gentleman from the county of Philadelphia. He considered the provision, that the legislature should not embrace two distinct subjects, or objects of legislation in one bill, rather ambiguous; and he, in fact, did not know exactly what idea the gentleman meant to convey by it. He would ask whether an act to incorporate a company to build a bridge across the Beaver river, and an appropriation of five thousand dollars to that object; another to erect a bridge across the Allegheny river, with a similar appropriation, and a third to construct a bridge in Venango county, with a like appropriation, would be looked upon by the gentleman who had submitted this amendment, as an act embracing distinct subjects, or objects of legislation? The appropriations were certainly for the same object, for they were to build bridges.

The only effect of the amendment, then, would be, to prevent the legislature from chartering a bridge company and a railroad company in the same act, because they were different subjects of legislation.

Now, would this amendment prevent log-rolling? He apprehended it would not. Then you would be placing a burdensome restriction upon the legislature, without any good resulting from it. It was found in practical legislation, to be very convenient to embrace in one bill, a variety of matters of the same nature; and this saved an immense deal of time. For instance, it was very common for a number of persons, in the course of a session of the legislature, to ask the body to confer power upon them to sell real estate. Well, it was very convenient, saved time, and was no injury to any one, but a very great benefit to the parties concerned, to have all these matters embraced in one bill; because, if they were not, it would be impossible to get them all adopted in separate bills, for want of time.

Again: the matter of election districts, which claimed the attention of the legislature at every session, was very conveniently and expeditiously disposed of, by embracing the whole of the districts in one bill, and passing it into a law in that form. There were various other matters which came before the legislature, that were disposed of in this way; and unless this was done, there would be great difficulty in getting them passed. He could not see the propriety or necessity of adopting this section; but even if it was proper, the ninth section was the place in which it should be introduced, it having been reported by the committee on that article, and being of a nature similar to the provisions of that article.

He hoped, therefore, that the motion to postpone might be adopted; and that we would not be troubled with propositions of this kind, until we reach the ninth article.

Mr. AGNEW wished to say a word or two more on this subject. The gentleman from the county of Philadelphia, had answered the interrogatory which had been put to him, that a distinct subject of legislation was a different subject. Now, this was such an answer as there was but little information to be derived from, therefore he should pass it over.

He would now say a word or two to carry out his idea in relation to this amendment. He apprehended that our penal law might be called a subject or object of legislation. So, also, were murder, robbery, theft, arson, and the like, subjects of legislation? But he would ask the gentleman from the county, to tell him to which his amendment would apply? Would it apply to the penal law, as being a subject or object of legislation? Or would it apply to the separate crimes, and say that the punishment for no two of them should be united in one bill? Would the gentleman, under this amendment, say that the penal law was one subject or object of legislation, and that crime, murder, or larceny was another? or which of these was to be made the integer, or in other words, the object of legislation in connexion with which no other could be introduced? Was the penal law to be a subject of legislation as a whole, or was it to be considered in separate parts? Was robbery to be considered one part, larceny another, and arson a third; or were they all to be consolidated and considered as one subject of legislation?

Suppose the legislature should revise the penal code, and say that the punishment for murder should be so and so ; the punishment for larceny different, and the punishment for other crimes different again from that, would or would not the gentleman's amendment declare that those subjects were proper subjects to be embraced in one bill ?

He would say that it was convenient and proper, that bills should embrace these different subjects, but there might be some doubt whether the gentleman's amendment, if it was adopted, would permit of it. If, sir, this amendment was adopted, and a law was passed in the way he had suggested, and a criminal put upon trial under it, why the first thing he would do, would be to plead that your law was unconstitutional, and that consequently he ought to be released. This would inevitably be the case, because, if various matters of this kind were embraced in one bill, such a plea as that might be very plausible. Then, the first thing which your courts would have to do in these cases would be, to determine whether the law was constitutional ; and if it was not, the criminal would go clear, no matter what his crime may have been, because your law that provided the punishment, was unconstitutional. Every rogue would make this plea before a jury, and the jurors being the judges of the law and the facts, might at one time decide one way, and at another time another way.

All this, he maintained, showed the ambiguity and impropriety of the amendment ; he hoped, therefore, that it might be postponed until the ninth section was reached ; and by that time, perhaps, gentlemen could put it in better form if they still desired that it should be inserted in the constitution.

Mr. M'CAHEN then modified his amendment to read as follows :

" The legislature shall not combine or unite in any one bill or act, any two or more subjects or objects of legislation, distinct in their character ; or any two or more distinct appropriation, or appropriations to distinct and different objects ; except appropriations to works exclusively belonging to and carried on by the commonwealth. And the object or subject matter of each bill or act shall be distinctly stated in the title thereof."

On motion of Mr. SCOTT,

The convention then adjourned.

MONDAY AFTERNOON, JANUARY 8, 1838.

FIRST ARTICLE.

The convention resumed the second reading of the report of the committee, to whom was referred the first article of the constitution, as reported by the committee of the whole.

The question recurring on the motion that the further consideration of the amendment to the said report be postponed for the present, the motion to postpone was rejected.

The question then recurring on the amendment, as offered by Mr. M'CAMEN;

Mr. DARLINGTON said, the latter clause of the amendment was very objectionable, and he wished to know whether the convention would make up their minds to pass it.

Did the convention intend to place a restriction on the legislature and if so, to what extent did they mean to do it? Must the court set the laws aside as unconstitutional, unless they are formed with this provision? Will the amendment be adequate to the end? He presumed it would not be. If the object was to prevent the carrying of a measure by a combination of interests, it would be impracticable. Gentlemen will say, I will vote for your bill, if you will vote for mine. Nothing can prevent it, I am in favor of the object of the amendment; but the means appear to me to be most futile. You cannot prevent log-rolling by this measure, nor by any thing in the constitution, as all experience has abundantly shewn. I submit to the convention, that the proposed amendment will be productive of great inconvenience in practice, and be of no practical use.

Mr. DENNY said, he believed that we were generally in favor of the object of the amendment, provided there could be some means to get at it in a proper way. This amendment was reported by the minority of the committee on the ninth article. The committee has probably some modification to offer, which might meet the views of the convention.

The gentleman from Northampton, (Mr. Porter) who is the chairman of this committee, has, no doubt, given his attention to it, and will propose something. In a modified form, such as the amendment might be made to assume, there could not be much objection to it. But the amendment, in the form proposed, would not remove the difficulty. So far as the object was to prevent the incorporating of subjects in the same act, it was a matter which might better be left with the legislature and the governor. The governor had already refused, repeatedly, to sign bills, which were evidently formed upon the principle of the combination of interests. If the subject should be laid over till we reached the ninth article, and till the gentleman from Northampton, (Mr. Porter) resumed his place, we could the better reach the object in view. It was certainly competent for the legislature, to introduce into the same bills, different

objects. For instance, they could provide in the same bill, for the general improvement of the state by rail roads. Sometimes it might be improper and partial to separate subjects of the same class. There would be great difficulty, in any attempt to put every subject into a distinct bill. The gentleman from Northampton, when he returned, might obviate all objections, and we were prepared to meet them on common grounds.

Mr. BIDDLE said, all who had spoken on the subject seemed to agree that log-rolling was an evil. There was no diversity of opinion as to this. The only question, then, is, does this amendment fully meet, and entirely remove the evil? It seemed to him that the amendment did not reach its object. It provided, that every law embracing two distinct subjects should be void. Suppose, then, a general law should contain one section that was inconsistent with its objects, the whole law would be void. We should be cautious how we made any such provision as this. The amount of difficulty which it would introduce in legislation could hardly be conceived.

The amendment had already undergone several modifications, which shewed the necessity of a deliberate consideration of the subject, before we adopted such a provision. The regularity of the mode of doing our business, ought also to be considered, and this did not appear to be the proper time and place for making the amendment. A gentleman had remarked, that the reservations of power in our constitution were all placed together in the ninth article. Unless we meant to depart from that system of placing the reservation and reservations, this was not the proper place for the proposed amendment.

There was a great difference, in this respect, between our constitution, and the constitution of the United States. The latter contains express grants of power, and reserves every thing not expressly granted; the former makes a general grant of powers, and express reservations afterwards. No powers can be exercised by congress, except those which are specially granted; and any powers may be exercised by the legislature of the state, which are not expressly reserved.

It appeared to him that we were now opening the subjects of the ninth article, instead of employing ourselves upon the first. It would be far better, in his opinion, to go on regularly. He would vote against this, because it was not calculated to remedy the evil complained of, and because this was not the proper place for introducing it into the constitution.

Mr. BANKS said, the governor's message, vetoing certain bills afforded a suitable commentary upon the impropriety of attaching bills of different subjects to each other. Corporations for different purposes, and with large capitals, were often put in the same bill. He hoped that the proposed restrictions would be introduced somewhere.

Mr. MERRILL said, in order to reconcile the conflicting views of the gentleman on this subject, he would move to amend the amendment by striking therefrom all after the words "section fifteen," and inserting in lieu thereof the words as follow, viz:

"No act of incorporation shall be passed by the legislature, unless public notice to be prescribed by law shall have been given for two months, and in no case shall one law contain more than one act of incorporation."

Mr. MERRILL said, he apprehended that the last clause of the amendment, was not so clear as to be distinctly apprehended. It would belong to the courts to overhaul the doings of the legislature, and to declare all laws void, the objects or subjects of which, were not distinct, and distinctly declared in their titles. This was not the first time that we had heard a great deal said against the legislature here. It was surprising to hear gentlemen talking of the legislature, as if they were not the representatives of the people of Pennsylvania, freely chosen by them, and responsible to them. The legislature and the courts, in case the amendment offered by the gentleman from the county, should be adopted, might differ in opinion as to the character of the objects and subjects of a bill. The legislature might deem the whole subject of banking as one distinct object. But, if two banks were chartered in one law, the courts might decide that the law, under this provision, is void. The object of a law, would, in fact, just as well admit two subjects, or two charters, as one. A law having but one object, might embrace two different subjects.

One object of legislation, was the criminal code, another was the banking system, and a third was the system of internal improvement; and, if a law was compared to one of these objects, it ought not to be considered as relating to, and providing for, distinct subjects. There can be no ambiguity, and no difficulty on the subject, if we provide that one law shall in no case contain more than one act of incorporation. Do we wish to restrict the legislature in the ordinary course of legislation, and cripple all the legislative action? Or do we merely wish to prevent the giving of acts of incorporation, with too profuse a hand, and with too great a facility? When we go further, and push those restrictions to extremes, we do a great injury to the public interests, by embarrassing legislation, and rendering it uncertain. He was in favor of some amendments to the constitution; but if twenty gentlemen should rise here, and oppose any amendment that might be offered, he should hesitate very much as to the propriety of that amendment. He wished to adopt no amendment of a doubtful character, and none that were not clearly called for by the public interests. He wished to make no amendments for the sake of an experiment upon the constitution, and to adopt such only as were clearly necessary.

If the constitution which we framed, went to the people with a bare majority, it would not receive their approbation. No amendments of doubtful propriety would be acceptable to the people. There could be no objection to the amendment which he now proposed. It requires a notice to be given of every act of incorporation asked for. The people were not in general opposed to incorporations, and the only object in view was, to guard the abuse of the system. Let those who ask an incorporation, give previous notice of it to the public, in order that its object may be well considered; and let it be provided, that only one act of incorporation shall be placed in the same law. This was all the restriction that it was necessary to impose on the legislature. Who shall say, that the people shall not have what is most agreeable to their own interests? If they want acts of incorporation, let them have them without any unnecessary restraint upon the grant of them. If we go any farther, in imposing restrictions upon the legislature, then we not only cast a reflection upon the integrity and trust-worthiness of the representatives of the peo-

ple, but also of the people themselves. We have a right to say, that the legislature may have been, and may be, mistaken in their judgments; but we have no right to vilify our own institutions.

Mr. EARLE said, the amendment of his colleague went to one distinct subject, and he hoped we should have the separate and distinct action of the convention upon it, and not cut it off by foreign matter. If he was seconded, he would move the previous question.

Mr. E. withdrew the demand for the previous question for the present, at the request of

Mr. CHAUNCEY, who said he was, at one time, favorably disposed towards an amendment of this sort. He thought he had perceived some difficulty arising from the mingling of distinct subjects together, and he felt disposed to support a provision requiring that all subjects of legislation shall be kept separate and distinct. But the whole difficulty resolved itself into one of inconvenience. It is inconvenient to embrace two subjects in the same law, and that forms an objection to it. But, sometimes it might be inconvenient to separate two distinct subjects, and it might be found more convenient to put them in one and the same bill. He had considered the reasons urged in favor of introducing into the constitution the provision offered by the gentleman from Union; and, upon a little reflection, it had occurred to him, that it was not the establishment of a principle of legislation, but rather the designation of the mode in which legislation should be carried on. We cannot prescribe the mode in which the legislature shall carry on their proper business. The rules of proceeding are to be made by the legislature for itself.

The constitution ought not to go farther than to settle the principles of legislation. In the first place, then, he objected to the amendment of the gentleman from Union, (Mr. Merrill) because it prescribed the mode in which legislation should be carried on; and, because, in the second place, it would appear as intended to cast a reflection upon some branch of the government. What was the necessity of this? The arguments in favor of the original amendment offered by the gentleman from the county of Philadelphia, led us to believe, that there was some great defect in the construction of the legislative department of the government—that the legislature was corrupt, radically corrupt, and that the constitution must be so altered, as to tie their hands. Now, if all this were indeed true, it would be useless for us to sit here. We could not cure it by any provision of the constitution.

It was said that there was much log-rolling among the members, and that they agreed among themselves to sustain this and that measure, and that corruption of this kind was very common and prevalent. But, would this amendment, or any amendment, prevent it? Could you, by any constitutional provision, prevent members from entering into a private agreement to vote for one bill, in case other members should give their support to another bill? The object can always be effected without tacking two bills together, unless they are so corrupt that they cannot trust each other. But there will be great difficulty in so forming the amendment as to constitute it a check on the legislature. Suppose the amendment to be adopted, and to become a part of the constitution. Suppose, then, that the legislature pass a law containing two objects or subjects, distinct from

each other. Does that violate the constitution, or not? Is the law void, or not? Must the courts pronounce whether the law be constitutional or unconstitutional? If so, they will soon have enough to occupy their sole attention for half a century. But if the courts are not to decide the question, who shall do it? Shall the legislature pronounce upon the acts of its predecessor, and decide whether its acts were constitutional or not?

It really appeared to him not to be taking too wide a view of the matter, to say, that to adopt that section would be to lay the foundation of an unceasing controversy. He was unable to perceive that it could answer any one good purpose. It was a weak provision, indeed, if the legislature was corrupt. Nor would it prevent corruption, which could be carried on by so many devices, if the disposition existed. For these reasons, he was opposed to the amendment of the delegate from the county of Philadelphia, and also to that proposed by the gentleman from Union.

Mr. BROWN, of Philadelphia county, thought that if there was any proposition on which all would unite—which would receive the assent of every member of this body, it would be one to prevent what was commonly termed “log-rolling”—a practice which had distinguished our legislature for many years, and which meant the uniting of dissimilar objects in one law. He could scarcely find language in which to express his utter astonishment and surprise at the opposition offered to the amendment. He had never, either in this convention or out of it, until this day, heard any one advocate the practice. He knew the people to be strongly in favor of an amendment of this character, and that they had, for a long time, felt the want of such a restriction. And, yet the plea was set up here against its introduction, that it would give rise to litigation! He trusted that gentlemen would not suffer themselves, without full examination, to be deterred by any trivial or light objection from giving their support to wholesome and salutary amendments, as they were deemed by those who brought them forward. As he had already said, experience had convinced the people of the necessity of such an amendment as the one proposed. They had seen it, particularly in the instance of the improvement bill, which the governor had very properly vetoed, and for which he had received the approbation of the people. The fact was, there was so much evil in proportion to the amount of good in the bill, that they could not desire its passage. And, he would ask, did we not see the legislature continually uniting dissimilar objects in one bill, some being for good purposes, while others were for bad? Many members there were, too, who knew not exactly what to do with respect to preserving their popularity—whether they would preserve it by voting for, or against, a bill. If a man should vote for it, he must take the evil with the good. Gentlemen would, probably, recollect the bill that was before the legislature, to authorize certain church-wardens to sell a church in Morgantown, Berks county, and to which were tacked divorces, bills for the incorporation of a great number of companies for different purposes, and among the rest one for the manufacturing of edge tools, none of which appeared in the title to the law. Every member who had heard that bill read, regarded it as a combination of evils.

The object of the amendment of the gentleman from the county, (Mr. M'Cahen) was to prevent a repetition of these legislative tricks, which were productive of much mischief. There were delegates here

who told the convention, in one breath, that they ought not to distrust the legislature; while, in the very next, when it suited their views, had themselves loudly proclaimed their distrust of those bodies, as for instance, in reference to the veto power, the impeachment of judges, &c. It seemed, according to the course of some gentlemen, that when the people are to be the sufferers, the legislature was to be trusted; but if, on the contrary, a judge was to be tried by the legislature, they were not to be trusted. It was true, that we had to trust all our agents; but, then, it was but proper that we should put all the restrictions we could on them, for notwithstanding they would sometimes run riot. Not trust the legislature! say gentlemen. The learned Judge, (Mr. Hopkinson) when in congress many years ago, considered it his duty, and did characterize the passage of a bill in which were included thirty or forty bank charters, as a fraud on the community.

He (Mr. B.) asked if any one could doubt it? And did not that bill, notwithstanding the veto of the governor, pass the legislature by a vote of two-thirds? We had been told that we must not doubt the honesty of the legislature. Why, we were doubting all the time. He understood the gentleman from Union, (Mr. Merrill) to ask if we doubted that the legislature would put more than one act of incorporation in the same bill? Why, as to doubting, that was out of the question, for we all knew what had been done over and over again. Without reference to any party lines, or local feeling, resolutions had been introduced, and still were before the convention, to restrict the legislature from transcending their just limits, and doing that which would prove injurious, rather than beneficial, to the people of the commonwealth. One of the objects of the amendment proposed was, to prevent the governor from being placed in a dilemma as to the merits or demerits of a bill, as it had sometimes occurred, in consequence of log-rolling, that the evil which a bill contained preponderated over the good, and had caused it to be vetoed by the governor.

He (Mr. B.) was entirely opposed to tacking one bill to another, and would have each bill stand or fall on its own merits. With regard to the amendment proposed by the delegate from Union, (Mr. Merrill) prescribing that three months' notice shall be given before the legislature shall pass any act of incorporation, he (Mr. Brown) considered it as no restriction to prevent a recurrence of the evil of which he and others complained.

[Here a delegate said—two months.]

Mr. B. continued. Well, if that was all the restriction to guard against legislative fraud, then he would vote against the amendment. He would go with the gentleman from the city, and insert in the constitution that which would prevent the evil, he cared not what business it might create for the lawyers. If lawyers were to be the preservers of the public rights, and if no other means could be found to put an end to legislative fraud, we should at least be better off than at present. By the adoption of the amendment the legislature would be more particular how they passed bills than they now were. He, for his own part, saw no evil to be apprehended in incorporating such a provision. He hoped, then, without saying any thing further on the subject, that it would be adopted, whether it should produce litigation or not.

Mr. MERRILL said it had been asked if there had been no evil committed by the legislature of Pennsylvania. Undoubtedly there had; and he entertained no question but what there would be evil felt from some of the acts of this convention. Man was not perfect, and was continually liable to err. He was for imposing such a restriction only as would conduce to the public good, and not a restriction of that character which could be productive of no benefit; but, on the contrary, give rise to doubt and lead to litigation. This, he thought, would be the result of adopting the proposed amendment, and therefore he could not vote for it. He regarded the principle of the amendment as somewhat vague, and the language in which it was clothed, not free from ambiguity. The wording of the amendment should, at least, be clear and perspicuous. It is as follows:

“The legislature shall not combine in any bill any two or more distinct and separate objects of legislation, or any two or more distinct appropriations to distinct objects, except appropriations to works belonging to and carried on by the commonwealth. And the object or subject of each bill or act shall be distinctly stated in the title thereof.”

As he had asked before, so he would ask now, what was the meaning of the word “objects”? What was meant by “distinct and separate”? Was it to be supposed that the legislature would pass a law which might be now considered a good law, and which, in eight or ten years hence, another legislature might regard as a bad law? He trusted our vested rights were not to rest on such a frail basis as that. But, it had been argued that the courts might have to settle the difficulty as to the constitutionality of an act, passed under certain circumstances.

The gentleman (Mr. Brown) had said there must be a constitutional provision as to the title of an act of assembly. Why, he (Mr. M.) asked if even there was no title at all, it necessarily rendered the law void? He apprehended that this matter was entirely beyond our jurisdiction.

This convention was not convened for the purpose of deciding upon the particular mode or manner in which the business of the legislature shall be transacted. He would now say a word with respect to the bank charters which passed the legislature some years ago, and to which reference had been made by the delegate from the county of Philadelphia. Did the gentleman understand that it was a legislative proceeding—that a law was passed incorporating twenty-five banks, and that the people sent such representatives only as would vote for them? And, those men represented the public will as well as any members of the legislature ever did. And this was fraud! What! were men who went to the legislature, and represented and carried into effect the will of their constituents, to be charged with committing a fraud?

He (Mr. M.) would contend that it was very wrong in any man to make so serious and grave a charge without being sure he could substantiate it. Owing to peculiar circumstances, the law became unpopular, and a cry was raised against the banks, and an electioneering clamour was gotten up against those representatives who had passed the bill in question. What member of the legislature, he would ask, had profited by that act? Could any gentleman here prove that members had profited? Why, then, were we to take up the cry of fraud, when there was nothing to sustain such a charge? Was such an assertion—such a misrepresen-

tation to go out of this body uncontradicted? Surely not. What would those who are to come after us think of such conduct as this? What would future legislatures think of it? The legislature of the present day, did not stand in higher estimation with the people, than the one which had been adverted to. He (Mr. M.) thought they represented the people as honestly and fairly, and that the institutions of the commonwealth were in as prosperous a condition as at this period. He knew very well that men frequently made mistakes, and often from error of judgment, and sometimes from bias or prejudice; but how could a man get up here and charge men indiscriminately with having committed fraud? He (Mr. M.) yielded to no man's judgment as to what was due to propriety and a nice sense of honor, and he felt himself bound to condemn such a course as derogatory in the extreme. He would admit that there had been some improper legislation in this state, and so there had in other states of the Union.

But, as he had said before, man is imperfect, and liable to err, and it was in vain to expect that assemblies of men would not sometimes commit errors as well as individuals. If the gentleman would restrict the legislature, he must put something more efficient in the constitution than the amendment he had offered.

He (Mr. Mr.) desired not to place any temptation in the way of the legislature to overstep the line of their duty, nor was he afraid of their doing so. He, however, wished to make applicants for acts of incorporation do their duty by giving public notice of their intention to apply for them.

He was sure that the amendment of the delegate from the county of Philadelphia, (Mr. M'Cahen) as it was framed, could not be carried into effect without throwing our whole system of legislation into confusion. We must put trust and confidence in our representatives that they will act fairly and honestly; and if we cannot trust them, we cannot trust the people themselves.

Mr. BROWN explained that he had done injustice to the gentleman from Franklin, (Mr. Dunlop) in stating that there were bills of divorce, beside the bill to incorporate an edge-tool manufactory, tacked on to the act for the sale of certain church property. On referring to ps. 743-4 of the acts passed by the legislature of Pennsylvania in 1835-6, he had discovered his mistake, and found the following:

"An act to authorize Isaac Worrell and Richard Stout, surviving trustees for the free-will Baptists of the borough of Frankford, to sell certain real estate; and to authorize the church-wardens of the protestant episcopal church of Morgantown, in the county of Berks, to sell and convey certain real estate, and for other purposes."

And, then comes a "whereas" and a section, and then comes another "whereas." Next comes "section two," empowering the church-wardens to sell a certain lot of ground; and section three, sets forth the title to a lot of ground in the county of Schuylkill. Next comes sections four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen; and last of all comes section fourteen, (which is like Pandora's box,) with all these things at the bottom. The section incorporates the Franklin edge-tool factory.

Now, if any delegate will say that that was judicious legislation, and that the governor ought to approve such a bill, then all I can say is, that his notions of proper legislation are very different from mine.

Mr. AGNEW hoped gentlemen would not forget to distinguish between the objects the mover of the amendment had in view, and the means by which he desired to attain them.

The gentleman from the county of Philadelphia, (Mr. Brown) had spoken of its being the general wish of the people of Pennsylvania, that some provision should be incorporated in the constitution to prohibit the legislature from passing any act embracing objects of an entirely different character. We all united in the desire that the legislature would not act in a hasty and careless manner, but that they would examine well and deliberate long before they gave their assent to any project. The question which the convention had to decide was the means by which the legislature should be prevented, in future, from doing those things complained of by the delegate (Mr. M'Cahen.) That gentleman seemed to suppose that the amendment which he had introduced would prove effectual. Let us examine the amendment :

"The legislature shall not combine in any bill any two or more distinct and separate objects of legislation, or any two or more distinct appropriations to distinct objects, except appropriations to works belonging to, and carried on, by the commonwealth. And the object or subject of each bill or act, shall be distinctly stated in the title thereof."

Now, the question is, whether this amendment is calculated to produce the object desired.

The crimes of murder and larceny are distinct subjects ; and, if you combine provisions in regard to them into one law, will it be constitutional or unconstitutional, under this amendment ? Unless you define what is a single subject or object, the whole matter is left open for discussion and dispute. It will be impossible to settle what laws are constitutional and what are not. Legislation will be embarrassed and uncertain. I ask the gentleman whether a bill of this sort is constitutional under the amendment or not ? A law is passed creating a company for a certain work, and authorizing a subscription to its stock by the state of Pennsylvania. This is a common mode of legislation. Yet the work and the authority given the company is one subject, and the subscription to its stock by the state, is another subject. Will this law be void under the amendment or not ? The object of the charter and of the subscription may be the same. It may be intended to effect a great public object, such as a bridge across a river. So far it is one object ; but to incorporate a company, and to subscribe stock, are two different operations. In one view of the subject, the object would be single, but the legislature cannot tell whether, in view of the provision in the constitution, it is single or not. It would depend upon the views which those who judge the constitutionality of the law might entertain. Again : the amendment of the gentleman from the county of Philadelphia, provides that the legislature shall not combine any two distinct subjects in one bill ; but I apprehend that a bill is not an act of assembly, for a bill is the form of a project of an act, before it is acted upon. A bill is the subject of legislative action. It is not an act until it has been passed upon. Will this amendment, then, prevent the

legislature from combining two or more subjects in one law—by offering and adopting one bill as an amendment to another? Each bill may contain a single and distinct subject; but, by combining two or three bills, the law forced upon them may contain more. Now, I ask gentlemen if they intend to prevent the legislature from chartering rail road incorporations for the improvement of the state? The laws for such objects frequently contain more than one incorporation. The object of the gentlemen, they say, is to prevent logrolling. Logrolling is, to be sure, a great evil, but not so great an evil as it would be to submit every act of the legislature to the decision of a court of justice. I ask every gentleman who has an interest in the peace of society, whether we ought to hazard all our legislation in this way? There are only two powers by which these legislative acts can be revived and passed upon, and one is the judiciary, and the other the legislature itself. What a scene will our legislature and courts present, when they become occupied with questions innumerable, multiplying and vexatious, about the constitutionality of acts passed by the legislature.

Suppose the responsibility of declaring the acts of the legislature void shall be devolved upon the courts. How often, sir, are the decisions of courts reversed? How uncertain will be this mode of decision? Suppose it be devolved upon the legislature to judge the past acts of its predecessors. Will not the same views and influence which, in the first place, passed an act, be united in its support? Or, shall one legislature be opposed to another, and one be employed to tear down and demolish the institutions which the other has established? We differ not about the object of the proposition, but the means of obtaining the object. We are all opposed to logrolling, which, it is said, is so extensively practised in the legislature. It appears to me, that something like the amendment offered by the gentleman from Union, will reach the object.

Mr. CHANDLER, of the city of Philadelphia, congratulated his friend from the county, (Mr. M'Cahen) upon his new abhorrence of logrolling. 'The gentleman's own election was the result of a compromise, and that was what was meant by logrolling.

If he understood the amendment, it included all the acts of legislation. At one time, there was a rule in the senate, that two acts should not be united in the same bill, but the representatives of the people took a different course, and the senate finally abolished their rule. The amendment was out of time and place, and as he believed, out of character also. 'The gentleman does not distinguish between the passage of a law, and the trial of a man for a crime. The legislature understood each section of the bill, just as well as if it were divided into several bills. He could see no good object to be obtained by adopting the amendment.

Mr. CUNNINGHAM thought that a great deal more had been said on this subject than was necessary, in relation to the mode of carrying out the provisions of the constitution, so as to mark out a particular course to pursue in the adoption of acts. We were not sitting here as a board of arbitrators, to hear all the evidence which could be adduced on the subject of legislation. We came here for the purpose of laying down great fundamental principles, and not for the purpose of discussing theoretical legislation. We came here to lay down principles which the people

of the state are to be regulated and governed hereafter, and not for the purpose of saying in what manner the members of the legislature should perform their duties.

A proposition was introduced here, for the purpose of saying in what manner the legislature should pass the laws which the people might require. This, however, he looked upon as a theory which would never work well in practice. He believed the old and long established rule could not be improved upon by this amendment. The old rule which was established before any of us had come upon the stage of action, and which had received the approval of public opinion from time immemorial, was better than any new rule which we might adopt. He believed the old rule to be the most perfect of any which we could now adopt. If, however, gentlemen could point out to him its errors, and show him wherein it was deficient, for all the purposes of legislation, then, perhaps, he might agree with them that it was time to abandon it; and seek for a new rule. But until they could do this, it was useless for them to be laying down new rules for the government of our legislature. If, any gentleman could lay down a new rule, which they could prove to be better in practice than the old one, then he would have no objection to support it; but he could not now fall in with untried theories, which he feared never would work, except to the disadvantage of the public.

This amendment provided that, two months' notice should be given of an intention to make an application for a charter. Notice must be given two months before an application for a charter is made. Now, in laying down a fundamental rule, we ought to be precise and explicit, so that the people might know what to do; but he would ask gentlemen what was meant by the provision, that notice should be given two months, preceding an application for an act of incorporation? Well, where was this notice to be given, or how was it to be given, so that the people of the whole state might have a knowledge of the matter? An election was held some weeks ago, in some of our north-western counties, and he ventured to say, although notice was given, and it was a public matter, that not one person in five hundred in the state, ever heard the names of either of the candidates. Where, then, was the benefit to be derived from this notice? And, he confessed that he could see a great deal of inconvenience to result from it, as no act of assembly of a particular class can be passed without two months' notice being given. He thought nothing would be gained by this in the legislature, and the people in general would have no more knowledge of the fact than if it had never been published. So much for that part of the amendment.

Now, with respect to embracing two or more subjects in one bill. He believed the gentleman from Beaver had said, that the words in the amendment was "bill" and not "law." Then, what is a bill? Why, it is a proposition depending before either branch of the legislature, and it is not a law until it has passed both houses and received the signature of the governor. The only thing then, which the amendment provided for was, that no two subjects were to be considered by the legislature at one time. But, how easy will it be for the legislature to avoid this provision, because when matters are carried to maturity in the legislature, the bills become laws, and they would not then come within the range of this constitutional provision if it was adopted.

The gentleman from the county of Philadelphia, has asserted that too many objects have been embraced in one act, but has he shown this to be the case? Has he adduced the proof of it? Not at all. We merely have his word for it. He has read to us two extracts from a particular law, and not for the purpose of proving to us that too many objects have been embraced in one bill, but for the purpose of bringing the legislature of our state into ridicule. The gentleman had read a variety of provisions on different subjects, in one act, but he had not pretended to say that any of those provisions were improper or such as ought not to be adopted. The gentleman had read over the provisions some two or three times, but never attempted to show that either of them was improper in itself. The fact is, that the provisions of that bill were all proper, and all received their due consideration in the legislature, notwithstanding that they were embraced in one bill. The different provisions of the laws were referred to different committees, and, therefore, carefully considered and reported to the house; but for want of time in the house to pass them in separate bills, they were embodied in one bill and passed as they now appeared. Well, was there any thing improper in this? If the different provisions of the bill were proper in themselves, and such as ought to have been passed by the legislature, where was the impropriety of embodying them all in one bill, and passing them in that way? The fact was, that it was necessary to do so, or many of its provisions never would have been adopted, for want of time.

Well, sir, has the public suffered by the passage of this bill or has any individual been injured by it? No one pretended to say this. Then, where was the objection taken to it? Merely because you could not see all the provisions of the act in the table of contents to your laws. It was not possible that you could lay down particular rules for doing business in your legislative bodies by your constitution; and until you are certain the rules of action of the legislature are wrong—and that the public is injured thereby, you ought not to attempt, to introduce new rules as you know not how they will work. This proposition, however, had been tried by one of the legislative bodies of Pennsylvania, and after sometime had to be abandoned. In the year 1833, the senate adopted a standing rule that no two distinct propositions should be combined in one bill. Well, under this rule the senate was enabled to get along pretty well; but the house, being the immediate representatives of the people, having so much to do, not only for the public good, but for the relief of individuals, found it was necessary to dispense with this rule almost every day, in order to pass bills of the senate, which had been sent down to the house, and came back amended. Eventually, the rule was found to be burdensome and it was rescinded. When, however, the rule could be suspended, the public business was transacted; but, if the convention should insert a constitutional provision of this character, it would be impossible to get rid of it, and great inconvenience and injury to the public interest would result from it. With regard to giving two months' notice it must be attended with very great inconvenience.

There is a rule in the legislature, that no bill shall be originated within eight days of the end of the session. Notwithstanding this rule, it often happens that new matters come before the legislature within that time, which it is indispensable that they should be adopted. These matters

then, either have to be added to bills pending, or the rule has to be dispensed with. This shows the impropriety of adopting any such provision as this. It very often occurs that large private estates are bound by legislative action at this late period of the session—and why would gentlemen desire to bind up the hands of the legislature in such manner that it would not be possible to adopt these salutary and proper laws which are so much demanded by the citizens of the commonwealth. This matter of asking power to sell estates, was a thing which often occurred in this city; and in case this amendment should be adopted, and power should be conferred in the same law, on several persons to sell different estates, it might give rise to a vast deal of litigation; and the courts would be filled with difficulties of this kind. A suit might be brought years after an estate was sold, and after valuable improvements had been made upon it, to recover it back, because the law which authorized the sale was not passed in accordance with the provisions of the constitution. The whole matter then would be thrown open, and expensive and vexatious law suits would be carried on, to the great annoyance of the courts and injury of the parties.

The amendment says that no two distinct propositions shall be embraced in one bill. Suppose an estate has been sold under the authority of a law, which had embraced in its provisions an authority to some other person to sell an estate, not exactly perhaps of the same description. Well, this matter comes up before the supreme court, years afterwards, is the supreme court to go back through the files of your house and senate to see what portions of that law had been embraced in different bills? Were they to examine over your whole legislative records for the purpose of ascertaining what section of the law had been embraced in another bill and what had not, before they can decide on the constitutionality or unconstitutionality of the law? Was this the examination your supreme court would have to make, to be enabled to decide what law was in accordance with the provisions of your constitution, and what was not? Well, then, supposing it to be discovered that the law which authorized the sale of the real estate referred to, embraced in its provisions other matters, then it is declared unconstitutional. And although the estate may have been sold for twenty years and improvements made upon it which have made it worth twenty times as much as it was when it was sold, the whole matter must be thrown open, and the purchaser must lose all that he has expended upon it. All this injury and injustice is to be done, merely because the legislature embraced two distinct subjects in one bill. What individual in this commonwealth has complained of the laws as they now exist on this subject? Where are the petitions presented by the people, asking of us to make this provision? And, what evidence have we that the people desire it?

No one out of this convention had complained; there had been no petitions presented, and there was no evidence that the people demanded of us to make any such amendment to the constitution. This amendment was a very pretty theory. It was a very pretty thing to say that the legislature shall not unite two distinct subjects in one bill; but when it came to be practised upon, it would be found to be totally defective. The delays, which took place in the legislature—and when he spoke of delays he would not even compare them with the delays which have taken place in this body; for, every one knew that no comparison would be made.

between them—would prevent the passage of many valuable laws, if you pinned down the legislature by these strict rules. The public would suffer by it, and individuals would suffer more. Therefore, he thought, that the best thing we could do would be to leave this whole matter to the integrity and honesty of the members of the legislature, who are the immediate representatives of the people. He was too much of a democrat and believed too firmly in republican government, to doubt, for a moment, the capacity and integrity of the immediate representatives of the people. If we doubt that, we at once doubt the capacity of the people to govern themselves. He believed the representatives of the people, coming fresh from the ranks of the people, as some gentlemen here would say, were the proper persons to leave this whole matter with, and if they did not perform their duties in a proper manner, they were responsible to their constituents, the people of the commonwealth. He would not restrict the legislature from passing wholesome laws, in any manner they thought proper, therefore he hoped this provision might not be inserted in the fundamental law of our state.

What are the objects of the amendment of the gentleman from the county? To prevent log-rolling? It is a singular fact that no restriction is put on the object, but merely the form, of a law. You are making a law by which fraudulent combinations, if they exist, shall be carried out. Why not say in your amendment that there shall be no log-rolling? You say merely that two distinct objects shall not be combined in the same bill. They might just as well be blended, as kept apart, if they are to prevail. Corruption is the same thing, whether it be carried out in one bill or two. He objected to it for another reason. What was to be done with local subjects if they could not be provided for in the same bills? It would be inconvenient to put each local topic in a separate bill. It would occupy five or six times as much of the attention of the legislature to pass separate bills on local subjects, as it would to number them according to their character. Blending the subjects would be no evil, if all of them were laudable and deserving of attention; but if they were of a corrupt character, then they ought not to pass at all. I am, upon reflection, opposed to the amendment. It can do but little good, and may be productive of much inconvenience. Log-rolling will be carried on, whether they do it by one bill or many bills. I am also in favor of shortening the sessions; but that will be impossible, if the time of the legislature is to be unnecessarily protracted by spinning out and passing, in many bills, the same subjects heretofore combined in one bill. Where is the inconvenience of having different subjects in the same law? All the subjects of the acts are not in the title. But does not the index show every subject? If the objection is to the index, then we had better reach the object, by providing that the secretary of the commonwealth shall provide a suitable index for the laws of the state. These reasons were all sufficient in his mind for rejecting the amendment.

Mr. BELL said, as all were now ready to vote without further argument, he would move the previous question, which was seconded.

And on the question,

Shall the main question be put?

It was determined in the affirmative.

And on the question,

Will the convention agree to the amendment ?

The yeas and nays were required by Mr. DICKEY and Mr. M'CAHEN, and are as follow, viz :

YEAS—Messrs. Banks, Barclay, Bedford, Bigelow, Brown, of Northampton, Brown, of Philadelphia, Clarke, of Indiana, Cleavinger, Crain, Crawford, Cummin, Curll, Darrah, Dillinger, Donnell, Doran, Dunlop, Earle, Fleming, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hayhurst, Hiester, High, Hyde, Kennedy, Krebe, Lyons, Magee, Mann, Martin, M'Cahen, M'Dowell, Miller, Overfield, Payne, Puiviance, Read, Ritter, Scheetz, Sellers, Seltzer, Shellito Smith, of Columbia, Smyth, of Centre, Sterigere, Stickel, Taggart, Weaver, Woodward—55.

NAYS—Messrs. Agnew, Baldwin, Barndollar, Barnitz, Bell, Biddle, Brown, of Lancaster, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clarke, of Beaver, Clark, of Dauphin, Coates, Cochran, Cope, Cox, Craig, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Donagan, Farrelly, Forward, Harris, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Hopkinson, Houpt, Jenks, Kerr, Konigmacher, Long, Maclay, M'Call, M'Sherry, Meredith, Merrill, Merkel, Montgome y, Pennypacker, Pollock, Porter, of Lancaster, Reigart, Royer, Russell, Seager, Scott, Sill, Snivey, Sturdevant, Thomas, Todd, Young, Sergeant, *President*—60.

So the question was determined in the negative,

A motion was made by Mr. Cunningham,

'That the Convention do now adjourn.

Which was agreed to.

Adjourned until half past nine o'clock to-morrow morning.

TUESDAY, JANUARY 9, 1838.

Mr. CAREY, of Bucks, presented a memorial from citizens of Bucks county, praying that no alteration may be made in the constitution, having a tendency to create distinctions in the rights and privileges of citizenship, based upon complexion.

Which was laid on the table.

Mr. DARLINGTON, of Chester, presented a memorial of like import, from citizens of Chester county.

Which was also laid on the table.

Mr. THOMAS, of Chester, presented a memorial of like import, from the citizens of Chester county.

Which was also laid on the table.

Mr. COATES, of Lancaster, presented a memorial of like import, from citizens of Lancaster county.

Which was also laid on the table.

Mr. MARTIN, of Philadelphia county, presented a memorial from citizens of Bucks county, praying that the constitution may be so amended, as to prohibit negroes from exercising the right of suffrage.

Which was also laid on the table.

Mr. SELLERS, of Montgomery, presented a memorial of like import, from citizens of Montgomery county.

Which was also laid on the table.

A motion was made by Mr. PURVIANCE, of Butler, and read as follows, viz :

Resolved, That an election shall be held by the people of this commonwealth, on the — day of — next ensuing, to be regulated and conducted as the general elections of this state now are, and to be superintended by the officers of the last general election, vacancies in any of the boards to be supplied by a majority of the voters present, at the opening of the election; at which time and place, the amendments hereafter enumerated, shall be submitted all together for confirmation or rejection. The tickets shall be written or printed, and labelled on the outside, with the word "Constitution," and containing on the inside, the words "For the Amendments" or "Against the Amendments," and when received and counted, the result thereof, shall be returned to the secretary of the commonwealth, who shall open and declare by proclamation, the number of votes for and against the amendments; and if a majority of all the votes thus given, shall be "For the Amendments," then these amendments shall become and be a part of the constitution of this commonwealth, otherwise they shall be void.

The secretary of the commonwealth shall cause the amendments to be published in at least two newspapers in each county, (containing so many) for at least two months before the election.

AMENDMENTS.

ARTICLE I.

Alter the fifth section so as to read :

"The senators shall be chosen for three years, by the citizens of Philadelphia, and of the several counties, at the same time, in the same manner, and at the same places where they shall vote for representatives."

Alter the seventh section so as to read :

"The senators shall be chosen in districts, to be formed by the legislature, but no district shall be so formed, as to entitle it to elect more than two senators, unless the number of taxable inhabitants in any city or county, shall at any time, be such as to entitle it to elect more than two; but no city or county shall be entitled to elect more than four senators."

Alter the tenth section so as to read :

"The general assembly shall meet on the first Tuesday of January, in every year, unless sooner convened by the governor."

ARTICLE II.

Alter the third section so as to read :

"The governor shall hold his office during three years, from the first Tuesday of January next ensuing his election, and shall not be capable of holding it longer than *six* in any term of nine years."

ARTICLE III.

Alter the first section so as to read :

“ In elections by the citizens, every freeman of the age of **twenty-one** years, having resided in the state one year, or if he had previously been a qualified elector six months before the election, and within **two years** next before the election, paid a state or county tax, which shall have been assessed at least ten days next before the election, shall enjoy the rights of an elector ; *Provided*, that freemen, citizens of the United States, having resided in the state as aforesaid, being between the ages of **twenty-one** and **twenty-two** years, shall be entitled to vote, although they shall not have paid taxes.”

ARTICLE V.

Alter section second to read as follows :

“ The judges of the supreme court, of the several courts of common pleas, and of such other courts of record which are, or shall be established by law, shall be nominated by the governor, and by and with the advice and consent of the senate, appointed and commissioned by him. The judges of the supreme court shall hold their offices for the term of **fifteen years**, if they shall so long behave themselves well. The president judges of the several courts of common pleas, and of such other courts of record as are, or shall be established by law, and all other judges required to be learned in the law, shall hold their offices for the term of **ten years**, if they shall so long behave themselves well. For every reasonable cause, which shall not be sufficient ground of impeachment, the governor may remove any of them, on the address of two-thirds of each branch of the legislature. The judges of the supreme court, and the presidents of the several courts of common pleas, shall, at stated times, receive for their services, an adequate compensation, to be fixed by law, which shall not be diminished during their continuance in office, but they shall receive no fees or perquisites of office, nor hold any other office of profit under this commonwealth.”

Alter section tenth to read as follows :

“ A competent number of justices of the peace and aldermen to be fixed by law, shall, in the several boroughs and wards of the several counties and cities of this commonwealth, be elected by the qualified electors of representatives. They shall be commissioned by the governor, and shall hold their offices for the term of **five years**, but may be removed on conviction of misbehavior in office or of any infamous crime, or on the address of both houses of the legislature.”

ARTICLE VI.

Alter it to read as follows :

“ **SECTION 1.** Sheriffs and coroners, shall at the times and places of election of representatives, be chosen by the citizens of each county ; one person shall be chosen for each office, who shall be commissioned by the governor ; they shall hold their offices for **three years**, if they shall so long behave themselves well, and until a successor be duly qualified ;

but no person shall be twice chosen or appointed sheriff in any term of six years. Vacancies in either of said offices shall be filled by a new appointment, to be made by the governor, to continue until the next general election, and until a successor shall be chosen and qualified as aforesaid."

Alter section second to read as follows :

"SECTION 2. The freemen of this commonwealth may be armed and disciplined for its defence, in such manner as the legislature may from time to time determine. Those who conscientiously scruple to bear arms, shall not be compelled to do so, nor pay an equivalent therefor. The militia officers shall be appointed in such manner and for such time as shall be directed by law."

Add a new section to be called section sixth, as follows :

"Prothonotaries and clerks of the several courts, (except the prothonotaries of the supreme court, who shall be appointed in the respective districts, by the court, for the term of three years, if they shall so long behave themselves well, and are not removed by the court) recorders of deeds, and registers of wills, shall at the times and places of election of representatives, be elected by the citizens of each county, or the districts over which the jurisdiction of said courts extends, and shall be commissioned by the governor; they shall hold their offices for three years, if they shall so long behave themselves well, and until their successors shall be duly qualified. The legislature, shall designate by law, the number of persons in each county, who shall hold said offices, and how many and which of said offices shall be held by one person. Vacancies in any of the said offices shall be filled by an appointment to be made by the governor, to continue until the next general election, and until a successor shall be elected and qualified, as aforesaid."

Add a new article, to be called article tenth, as follows :

"SECTION 1. No corporation shall hereafter be created, until three months' public notice of the application of the same shall have been first given, in the place where its establishment is desired, in such manner as shall be prescribed by law, nor shall any corporation, possessing banking or discounting privileges, be chartered for a longer period than twenty years, nor shall any such corporation be created, continued or revived, that may not be modified, altered or repealed, by the concurrent action of two successive legislatures; but the commonwealth shall indemnify all losses and damages that may accrue to any corporation by such action, nor shall more than one distinct subject or act of incorporation be included in the same act."

Add a new article, to be called article eleventh, as follows :

"SECTION 1. Any amendment or amendments to this constitution may be proposed in the senate or assembly, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and the secretary of the commonwealth shall cause the same to be published as soon as practicable, in at least one newspaper in every county in which a newspaper shall be published; and if in the legislature next afterwards chosen, such proposed amendment or amendments shall be agreed to by a majority of all the

members elected to each house, the secretary of the commonwealth shall cause the same again to be published in manner aforesaid, and such proposed amendment or amendments shall be submitted to the people at such time at least three months distant, and in such manner as the legislature may prescribe. And if the people shall approve and ratify such amendment or amendments by a majority of the qualified voters of this state, who shall vote thereon, such amendment or amendments shall become a part of the constitution."

Laid on the table.

Mr. PURVIANCE, having obtained leave from the convention, stated that he did not offer this resolution, with a view of calling for its consideration at this time. But, as the convention had fixed on the 2d of February for the final adjournment, and that period was rapidly approaching, it appeared necessary that something should be done. He gave notice of his intention, on the 25th of this month, to call for the second reading of the resolution. In the meantime, the discussion which was now pending, could proceed. On the 2d of February, he would call the previous question on his resolution.

A motion was made by Mr. REIGART, of Lancaster, and read as follows, viz :

Resolved, That this convention will consider on second reading, the different articles of the constitution, as reported by the committee of the whole, article by article, commencing with the second article of the constitution, and that on a call for the previous question being put and sustained, the main question shall be on such entire article, as reported by the committee of the whole, or on such entire article as it may have been then amended on second reading.

Laid on the table.

A motion was made by Mr. EARLE, of Philadelphia county, and read as follows, viz :

Resolved, That the committee appointed on the second instant, be instructed to inquire and report, whether any, and if any, which of the amendments now adopted, or which may be hereafter adopted by this convention, are, or may be in any wise ambiguous in their language, or calculated to convey a meaning different from that which the said committee, or any portion of it, may suppose to have been intended by the convention; and, also, that the said committee be instructed to report what changes or additions of phraseology, if any, they believe to be expedient for the purpose of clearly expressing the intent of the convention in the premises.

Laid on the table.

FIRST ARTICLE.

The convention resumed the second reading of the report of the committee to whom was referred the first article of the constitution, as reported by the committee of the whole.

A motion was made by Mr. M'CAHEN, of Philadelphia county, to amend the said report, by inserting the following new section viz :

"SECT. 14. The title of every law shall distinctly announce its enactments, and no bill, after it has passed one house, shall be amended in the other by incorporating therewith distinct or dissimilar subjects, nor shall any private corporation or other than public objects be at any time made part of a bill for public objects."

Mr. DENNY, of Allegheny. Where is the section to be introduced?

Mr. M'CAHEN. Precisely where it is offered.

Mr. DENNY. That is the answer. Then I would ask the Chair if it is intended to postpone the section which is now under consideration?

The PRESIDENT. This is proposed to be inserted as a new section—section fifteen.

Mr. DENNY. Then the consideration of the 14th section must be postponed.

Mr. M'CAHEN. This is the course which has been pursued before.

Mr. DICKEY, of Beaver. We must, of course, postpone the pending section, according to the resolution introduced by the gentleman from Mercer the other day.

Mr. BROWN, of Philadelphia county. Gentlemen have obtained some new light since yesterday. The gentleman from Franklin offered a new section yesterday, and there was no opposition to it. I don't know what new light has broken on the gentlemen. Your decision, sir, was a correct one.

Mr. DICKEY called for the reading of the resolution of the gentleman from Mercer, (Mr. Cunningham) adopted on the 30th ult.

The secretary accordingly read the resolution, as follows :

“Resolved, That when any article of the constitution shall be under consideration, on second reading, the sections shall be read and considered in their numerical order, and sections to which amendments have been made in committee of the whole, shall be read with the amendments.”

Mr. DENNY then rose to make a question of order. If rules are made, we should conduct our business in conformity to them. When any new subject is brought before the convention, it should not be entertained, without a motion to postpone. Otherwise, there would be no end to our labors. One gentleman might move a new section; I might move another; and so on. Thus section may be added to section to any extent. He, therefore, objected that it was not in order to offer a new section, without a postponement by the convention of the next reported section, or until the report should be gone through.

The PRESIDENT then stated the question of order, viz :

“Whether it be in order to offer a new section before the report of the committee shall have been gone through with, or the next reported section postponed?”

On this question, a debate took place, which occupied some time.

Mr. DICKEY certainly considered it in order, to introduce a new section, but that new section must be introduced in accordance with parliamentary rule. Then, that parliamentary rule, was, when you desired to move a new section, to move to postpone the section under consideration, for the purpose of introducing that new section. A different course, to be sure, had been pursued yesterday, but no question was then raised in relation to it. Now, however, the question was raised by the gentleman from Allegheny, and it was the duty of the convention to decide in conformity to strict parliamentary rule.

Mr. EARLE inquired of the Chair, whether section fifteen had been read by the clerk.

The **CHAIR** replied, that section fourteen of the printed report had not yet been read. Section thirteen had been passed upon, and section fourteen had not yet been read.

MR. EARLE considered, then, that this motion of his colleague, stood in the same position which the section, submitted by himself, and the one submitted by the gentleman from Franklin, stood the other day. He believed this convention was disposed to act with perfect fairness towards all its members, but he would ask, after the course which the body had pursued heretofore, whether it would be treating his colleague as other gentlemen had been treated, now to refuse to receive this motion? He would ask whether it would not be acting unfairly, oppressively, and unjustly towards his colleague, to refuse to receive this section after the course which had been heretofore pursued by the body? Bodies of this kind adopt rules fairly for all the members, and go to work on the faith of those rules. He would ask gentlemen whether they were going to commit a breach of the faith of those rules which they had adopted but the other day. It was desired that every member should have the opportunity of expressing the will of his constituents, and it had been complained of here, by many, that they were prevented, in some measure, from doing this, by the rule that no gentleman should be permitted to speak more than one hour. Now, however, if you refuse to receive this amendment, you cut a man off entirely from expressing the will and wishes of his constituents.

If a rule is brought forward, as was the case with the rule offered by the gentleman from the city, (**Mr. Meredith**) and it is proposed to amend that, so that it may be in order, at any time, to move a new section, and it is decided by the Chair that it is unnecessary, because a new section would be entertained as the rule stood; and in consequence of this decision, the amendment is withdrawn, and the convention acts under this decision of the Chair, he would ask whether that rule could be changed in any other manner than by the introduction of a proposition to change the rules? What were the state of the facts in relation to this case?

Before we proceeded to second reading, the gentleman from the city, (**Mr. Meredith**) submitted a resolution prescribing the mode and manner in which we should proceed on second reading. He (**Mr. E.**) offered an amendment that a new section might be inserted when the convention arrived at the proper place to insert it. It was objected to this, that it was unnecessary, because it would be in order to do this without the amendment. The President was asked for his opinion in relation to the matter, and he declared that a new section might be introduced, and upon this understanding, he had withdrawn his amendment. If there had been any doubt in relation to the subject, at the time, he should, unquestionably, have pressed his amendment to a vote. Well, under this construction, he had offered two new sections, one of which had been adopted, and on yesterday, the gentleman from Franklin submitted a new section under the same construction of the rule, without any motion to postpone the section supposed to be under consideration.

MR. BANKS would submit whether the gentleman was in order.

The **CHAIR** considered the gentleman to be in order.

Mr. EARLE said, he was speaking to the point of order, and he was sorry the gentleman from Mifflin could not comprehend him. The convention had, in the most solemn and deliberate manner, proceeded upon the course which he had alluded to, and he hoped they would not now reverse their former mode of proceeding; at any rate, not without doing it in the proper manner, by introducing a resolution to change the rules.

The CHAIR would state his recollection of what had taken place at the period referred to by the gentleman from the county of Philadelphia, for the information of some gentlemen who had not then been present, and of perhaps some, who, at the time, were not paying attention to the matter at that moment before the Chair. He would say, then, that his recollection did not differ substantially from that of the gentleman from the county of Philadelphia, as just stated by him.

When the resolution was pending, as submitted by the gentleman from the city of Philadelphia (Mr. Meredith) and modified subsequently by the gentleman from Mercer, (Mr. Cunningham) the gentleman from the county of Philadelphia, offered an amendment to the effect that a new section might be introduced on second reading. This was objected to, as being unnecessary and it was alleged that, under the resolution as it stood, the same object could be obtained. The gentleman from the county of Philadelphia, then appealed to the Chair to know what construction he would put upon the resolution, and the answer given to that inquiry was, that as it appeared to be the sense of the gentleman who offered the resolution, and of the other members of the body, the Chair would entertain a new section, and it would then be for the convention to decide whether it was in order or not. It was, then, upon these precise grounds that the Chair now referred this matter to the convention.

Mr. MEREDITH would merely say, that he was not present when his resolution was amended by the gentleman from the county of Mercer, and when the gentleman from the county of Philadelphia, alleged that he had this understanding with the convention that he could not act upon any such understanding. He must act upon the resolution as he understood its terms, and upon no understanding in relation to it. As to the rule in relation to this matter, he conceived it to be clear and easily understood, and that it would do no injustice to any one. The rule is, that the sections are to be considered in their numerical order. Then, if any gentleman desires to introduce any new section, all he has to do, is to move to postpone the section under consideration for the purpose of getting his section before the convention, and by this means, he can be heard, and through him his constituents could be heard. This was the strict parliamentary mode of proceeding, and he hoped it would not be departed from in this convention, because if it was, we must expect to be continually in confusion and disorder.

Mr. BROWN, of the county of Philadelphia, was not about going into a discussion of parliamentary rules, for he had very little acquaintance with them; but when he saw a particular course pursued by the President and the majority of the convention, acquiescing in that course for some days, and then a new course of action about to be taken without any appeal from the Chair, and without any motive to change the rules, he felt that there was no security in our rules, and that we were entirely at the mercy of those

who understood the parliamentary tact in relation to these matters. This question was raised while the resolution of the gentleman from the city of Philadelphia, was under consideration, and the Chair decided that it was in order to submit a new section without moving to postpone any thing. Now, that decision, he took it, is the rule of the convention until it is appealed from, and reversed by the convention, or until the Chair himself reconsidered and reversed it. If we go on in the way we have been, we never shall have rules that any body can understand. Our rules had been so frequently changed, that from the commencement, he had never been able to comprehend them. He hoped, therefore, that we would not now attempt to make them more complex, by introducing new modes of proceeding. What he now contended for, however, was, that the decision made some days ago by the Chair, must be the rule of the convention, until it was reversed.

Mr. BANKS said, it was a well ascertained fact, that two wrongs would not make a right. If, therefore, the convention on some two or three former occasions acted erroneously, it was no reason that they should continue to do so. He had no doubt when the gentleman from Franklin (Mr. Chambers) submitted his amendment on yesterday, although the President decided that he could make it, that he ought to have moved to postpone the section under consideration, for the purpose of submitting his new section. It was not made however, then, and no question was raised in relation to it; but as a question had now been raised by the gentleman from Allegheny, he thought that the convention must determine that a motion must be made to postpone, in order to offer a new section. If the convention had been wrong heretofore, it was always proper to correct that wrong, and not to remain in the wrong, as had been suggested by the gentleman from the county of Philadelphia, because we had been wrong heretofore. He had no doubt at all of the propriety of making the motion to postpone before a new section could be introduced, and he hoped the convention would so decide the matter.

Mr. HIESTER demanded the previous question, but it was not seconded by the requisite number.

Mr. MANN said, it was unnecessary for him to say anything on a question which had been so fully discussed, further than to state what had been the universal practice in all legislative bodies, of which he had been a member. It had always been the practice, so far as he knew, in legislative bodies, when a new section was introduced to a bill, to make a motion to postpone the corresponding section in the bill. This was the usual course in legislative bodies, and he thought this was the proper course to pursue in this convention.

Mr. BIDDLE thought there was no inconsistency between the course which the Chair was now pursuing, and his former decision.

The CHAIR stated, that he had never made a decision, because the question was never raised. He had been appealed to by the gentleman from the county of Philadelphia, and in reply to that gentleman, the Chair had stated it, as his opinion, that a new section might be moved. Since that, the Chair had not felt himself at liberty to object to the reception of new sections; and therefore, as the question was now raised, he had referred the matter to the convention for their decision.

Mr. BIDDLE resumed. He was about to draw the attention of the convention, to the inconsistencies which the Chair had just stated. That being done, however, he would merely say that no injustice could be done to any one, by this mode of proceeding. Every one will have the right to move to postpone a section, just as well as to offer a new section without making this motion. He hoped the convention would adhere to the rules of order of legislative bodies, as they had been said to exist by several gentlemen who had great experience on this subject. This would be doing injustice to no one, and it would be impossible to proceed in any systematic order, without adhering to those rules which it had been found necessary to adopt after long experience.

Mr. M'CAHEN cared very little, how the convention decided this question, so far as he was concerned in it; but it seemed to him that the course which the convention had heretofore pursued, was the most perfect one, and the most easily understood. If he moved to postpone a particular section to introduce his amendment, and that motion was agreed to, he would ask gentlemen what would become of that section? Would it be removed from before the convention, or would it come up to be voted upon afterwards? Again, in case he moved to postpone for the purpose of offering his amendment, and the motion was agreed to and the previous question moved, he would ask whether the new section would be cut off by it, and what would become of the section which had been postponed? He was willing that the question should be taken on the merits of his amendment, and he hoped it might not now be cut off by any side blow.

Mr. FULLER regretted exceedingly, that this practice had grown up of receiving sections, without making a motion to postpone the section under consideration. In all legislative bodies, in which he had held a seat, the practice had always been, when it was desired to offer a new section, to move to postpone the one under consideration for that purpose, or wait until the sections are read through and introducing it at the end of the bill. He hoped, therefore, that the gentleman would withdraw his amendment, and reserve it until this article is read through, and then he can offer it at the end of the article without moving a postponement.

Mr. FORWARD said, that the rules provided, that the sections to the constitution should be taken up in their numerical order; but it was said that there was some implied understanding, that you were not to proceed in this way, but that new sections could be introduced at any time, without a motion to postpone. Well, sir, if this was the case, would any body say it was proper? Would any one say it was proper to displace a section of the constitution by an amendment merely, and without a motion to that effect. If this doctrine was correct, one gentleman might move a section which would displace the section in the constitution, and another might move a section that would displace his section, and so on *ad infinitum*. You might go on in this way, piling Pelion upon Ossa, until every member in the convention had submitted a new section, and then, for aught he knew, the same process might be gone through a second time. He could never agree that this should be the case, and hoped that the convention would adhere to the known rules of legislation in relation to the matter.

Mr. READ said it was perfectly correct, as had been stated by the gentleman from Milford, and other gentlemen, that it would be necessary in the legislature, to move to postpone a section to introduce a new section, and so it would have been here, if we had adhered to those rules which prevailed in the legislature, and in that case there would have been great force in the remarks of those gentlemen. But this was not the case here, because we have gone directly counter to the rules of our legislative bodies. In the legislature every section must have an affirmative vote upon it, before it can have any force. Here we have determined upon pursuing a different course, and have determined that where no amendment is offered to a section, no vote shall be taken upon it. But further than this, when a resolution was before the Chair, marking out a course of proceeding on second reading, there was a construction placed upon that resolution by the Chair, which induced every one to believe, that new sections might be proposed on second reading, without a motion to postpone the section supposed to be under consideration. In pursuance of this decision of the Chair, an amendment was withdrawn by the gentleman from the county of Philadelphia, the provisions of which were that a new section might be proposed whenever the place was reached at which it would be proper to introduce it, and under this same decision of the Chair, some two or three new sections were proposed—voted upon, and one of them adopted without any motion being made to postpone a section for the purpose of introducing them. If then, this order of proceeding was reversed, he would ask whether it would be treating those who yet had amendments to propose, with that justice which others have received at the hands of the convention?

Mr. DICKEY considered, that if we had varied from parliamentary rule in one or two instances, when no question was raised in relation to it, that was no reason why we should continue to do so, when the question was raised by the gentleman from Allegheny. He hoped, therefore, that the convention would decide in conformity with former practice in all legislative bodies.

The CHAIR then put the question, whether it was in order to move a new section without first moving to postpone the section under consideration for that purpose, and it was decided by the convention that it was not in order, without a division.

Mr. M'CAHEN then moved to postpone the fourteenth section, for the purpose of introducing the following, to be called section fifteen:

“SECTION 15. The title of every law, shall distinctly announce its enactments, and no bill after it has passed one house, shall be amended in the other, by incorporating therewith distinct or dissimilar subjects; nor shall any private corporation, or other than public objects be at any time made part of a bill for public objects.”

Mr. M'CAHEN did not wish to take up the time of the house, in discussing this section. He thought the propriety of adopting such a provision, must suggest itself to the mind of every gentleman. It would prevent some scenes in the legislature, which every gentleman who had been a member of that body, must be familiar with, and it would require all bills to stand on their own merits, without having the aid and influence of some half dozen of other propositions to help them through. Great and

just complaints had been made by the people on this subject, and he hoped some provisions might be inserted in our fundamental law, which might remedy the evil. Every thing which had been said in support of the amendment he had submitted on yesterday, would apply with equal force in support of this. He should say no more now in favor of this amendment, but would content himself by giving his vote in favor of placing it in the constitution as a check upon the legislature.

Mr. CHANDLER, of Chester, called for a division of the question, so as to take the question first on the motion to postpone.

Mr. REIGART called for the yeas and nays upon this question, which were ordered, and were—yeas 59, nays 61, as follows:

YEAS—Messrs. Banks, Barclay, Bedford, Bell, Bigelow, Brown, of Northampton, Brown, of Philadelphia, Clarke, of Indiana, Cleavinger, Crain, Crawford, Cummin, Curl, Darrah, Dillinger, Donagan, Donnell, Doran, Dunlop, Earle, Fleming, Foulkrod, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hastings, Hayhurst, Helffenstein, High, Hyde, Ingersoll, Keim, Kennedy, Krebs, Lyons, Magee, Mann, Martin, M'Cahen, M'Dowell, Overfield, Payne, Read, Riter, Ritter, Scheetz, Sellers, Shellito, Smith, of Columbia, Smyth, of Centre, Sterigere, Stickel, Sturdevant, Taggart, White, Woodward—59.

NAYS—Messrs. Baldwin, Barndollar, Barnitz, Biddle, Brown, of Lancaster, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clarke, of Beaver, Clark, of Dauphin, Coates, Cochran, Cope, Cox, Craig, Crum, Cunningham, Denny, Dickey, Dickerson, Farrelly, Forward, Harris, Hays, Henderson, of Allegheny, Hiester, Hopkinson, Hout, Jenks, Kerr, Konigmacher, Long, Maclay, M'Call, M'Sherry, Meredith, Merrill, Merkel, Miller, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Purviance, Reigart, Royer, Russell, Saeger, Scott, Serill, Sill, Snively, Thomas, Todd, Weidman, Young, *President*—61.

So the motion to postpone was disagreed to.

Sections fourteenth, fifteenth, sixteenth, and seventeenth were severally considered, and no amendment was offered thereto.

The eighteenth section being under consideration,

Mr. EARLE moved to amend the said section by inserting after the word "office" in the fifth line, the words "or appointment to which any salary or fees may be attached."

Mr. EARLE said, it was usual for a member of congress, or of the legislature of the state to hold the office of prosecuting attorney, inasmuch as it was an appointment and not an office. An office and an appointment were precisely the same in substance.

The motion to amend was lost.

The nineteenth section was considered and no amendment offered thereto.

The twentieth section being under consideration, as follows: "All bills for raising revenue shall originate in the house of representatives, but the senate may propose amendments as in other bills."

Mr. CLARKE, of Indiana, moved to amend the same, by striking out the words "for raising revenue," and from the end of the section, the words "as in other bills."

Mr. CLARKE said, Mr. President—I do not know what may be the disposition of the convention in regard to this subject. There is generally an indisposition here to alter any thing. When I offered the amendment in committee, it took gentlemen by surprise. I hope the convention will see the necessity of adopting some amendment of this sort. I think it will be acknowledged by all that we have too much legislation—that the quantity of it is too great, and that its quality might be improved by lessening its quantity. The quality is what we ought most to prize, for a few well digested laws are much better than volumes of inconsiderate and cumbrous legislation. The legislative department take it upon themselves to remedy all the grievances which flesh is heir to. I was urging, sir, that we had too much legislation, and one of the bad workings of superfluous legislation is, that it draws to it all classes of petitioners for relief and redress. It would be much better to redress grievances by law, in some regular mode, instead of affording relief upon individual application, through the legislature. It would then be done with more impartiality, and with greater satisfaction to the people. He would like to see the business originate, as it does now, upon petition of individuals, but he wished to have it all originate in the house of representatives and pass through that body before it came into the senate, and, when it was there, the senate could perform its appropriate function of revising it. Much of the complaint of log-rolling, originated in the manner in which bills were brought forward in the legislature. The bills became the subject of a perfect scramble between the two houses. Members say to each other, do you assist in passing my bill through your house, and I will push your bill through mine. We should do away with log-rolling, in a great measure, if we kept the senate and house apart, in relation to the origination of bills. There would then be very little occasion for bargaining between the members of the two houses. The business would be done more methodically than it now is, and done with more wisdom, discrimination, and impartiality. The senate being the body for revising the bills passed by the house, would attend more particularly to the precise language of the bills than they now do, and there would be saved much vexatious dispute and litigation as to the meaning of the legislature in certain acts. They would carry every bill through a regular process of distillation, and would bring them out pure, both as to form and substance.

The effect of this provision would, also, be to render the senate a more dignified and patriarchal body than it now is, and thus to enable that body to fulfil better the original purpose of its creation, than it can do, under the present system. I trust the amendment will be duly considered by the convention.

Mr. REIGART said, the delegate from Indiana had failed to convince him of the propriety of adopting the amendment offered. It did seem to him that, as far as all experience went, it had been found in favor of giving the two houses of the legislature, concurrent jurisdiction in all cases, except that of raising the revenue. This was the provision in every state of the Union, and it was the provision in the constitution of the United States. The great principle that all money bills should come from the people, or their immediate representatives, was undisputed, and, as to other bills, it was agreed by the wisdom and experience of all

the American constitutions, that they might arise in either branch of the legislature.

The reason why all money bills should come from the people is obvious, and there is no reason why the senate should not, in other respects, exert a concurrent power with the two houses of representatives. The convention would not be thought, assent to any alteration of this kind. The senate exercises a conservative power in amending bills from the house; besides, that of originating bills. There is no objection, on the part of any portion of the commonwealth, to this part of the constitution, as it now stands.

Mr. SMYTH, of Centre, could not, he said, agree with the gentleman from Indiana, as to the propriety of this amendment. It was well known that a considerable part of the session always passed over before bills could be sent to the senate. This amendment would deprive the senate of the power of originating any bills, and the consequence would be that the necessary business of the session would drag on very slowly. The great part of the session would be over, before there would be any thing to act upon. The senate despatches its business with greater facility and promptness than the house, and co-operates very carefully in originating bills on general subjects. This was his ground of objection to the amendment, and he hoped the convention would consider long and well, before they adopted it.

The amendment was then disagreed to.

The twentieth section having been gone through with, the convention proceeded to the reading of the twenty-first section.

Mr. DUNLOP asked leave to move an amendment to the twentieth section which had just been disposed of, and objections being made,

The question was taken, by yeas and nays, on the motion for leave, and decided in the affirmative, as follow :

YEAS—Messrs. Banks, Barclay, Bedford, Bell, Bigelow, Brown, of Northampton, Brown, of Philadelphia, Carey, Chambers, Clarke, of Indiana, Cochran, Craia, Crawford, Curll, Darrah, Donagan, Donnell, Doran, Dunlop, Earle, Fleming, Foulkrod, Fry, Gamble, Grenell, Hastings, Helffenstein, Henderson, of Dauphin, High, Hopkinson, Hyde Ingersoll, Keim, Krebs, Long, Lyons, Magee, Mann, Martin, M'Cahen, M'Dowell, Merrill, Miller, Overfield, Payne, Read, Riter, Ritter, Russell, Saeger, Scheetz, Sellers, Serrill, Shellito, Smith, of Columbia, Smyth, of Centre, Sterigere, Stickel, Sturdevant, Taggart, Woodward—61.

NAYS—Messrs. Agnew, Baldwin, Barndollar, Barnitz, Biddle, Brown, of Lancaster, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clarke, of Beaver, Clark, of Dauphin, Coates, Cope, Cox, Craig, Crum, Cummin, Cunningham, Darlington, Dickey, Dickerson, Dillinger, Farrelly, Fuller, Gearhart, Gilmore, Harris, Hayhurst, Hays, Henderson, of Allegheny, Hiester, Haupt, Jenks, Kerr, Konigsmacher, Maclay, M'Call, M'Sherry, Meredith, Merkel, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Purviance, Reigart, Royer, Scott, Seltzer, Sill, Snively, Thomas, Todd, Weidman, White, Young, Sergeant, *President*—57.

Mr. DUNLOP, of Franklin, moved to amend by inserting after the word "revenue," the words "and making appropriation."

Mr. D. said that his amendment did not go quite to the extent of that of the gentleman from Indiana, which he had felt a strong disposition to vote for, yet it answered all the purpose he desired. It seemed to him,

that the object was, as every body knew, who pretended to a knowledge of legislative history, to separate the senate and house of representatives, in order that the one might be a check on the other. Our whole constitution was a system of checks. The senate could only be an effectual check on the house of representatives, either by being organized in a different manner, or having different powers conferred on them. By the amendment which we had made to the old constitution, we had brought the terms of the senators and the members of the house of representatives nearer together—the first being elected for three years, instead of four—and the last for one year. The only difference between the members of the two bodies was, that the members of the senate were, generally, older. Both bodies had an equal right to originate all bills, except revenue bills, and they belonged to the house of representatives. There was, consequently, between the two bodies, no rivalry of opinion—no *esprit de corps*—no anxiety to watch and check each other. The senate had now the power to originate appropriation bills, but not revenue bills. The senate and house of representatives were dissimilar, in some respects, from each other, though ready to act together, and were in daily intercourse with each other, in reference to bills. If the senate had somewhat different powers conferred on them, they would feel themselves more of a revising body.

He would ask any gentleman, who had been a member of the senate, if he did not think, that if they were freed from their present control over revenue and appropriation bills, they would not consider themselves differently constituted? Whether they would not regard themselves as partaking more of the character of a revising body, than heretofore?

How, he would ask, did the framers of the constitution come to insert the clause that the house of representatives only should have the power to raise revenue? Why, because it was a feature of the British constitution, from which we copied to some extent, in erecting the structure of our own government. The house of commons consider themselves the holders of the public purse, and were so jealous of the hereditary house of lords, and of their influence, and of the power and weight of the crown over the revenues of the country, that they would not give to either, the power to raise money. And the house of lords had only the power to make amendments to revenue bills. Our senate was constituted almost like the house of representatives. They had no qualification on account of property; nor were there any hereditary differences between them. The senate had precisely the same power as the house of representatives, except so far as related to the raising of revenue. He asked what peculiar feature there was in the constitution of the senate which distinguished it from the house? Why, that they did not originate revenue bills, but acted as a check on the other body, in regard to them. He recollected nothing else in which they were a check, if a check at all. He maintained, however, that the powers of the senate and house of representatives, not only with regard to the raising of revenue, but the appropriating of it also, ought to be on a separate footing. He had known members of the senate to say to members of the house—"send your bills in, and we will take care that they do not pass."

He would say that there ought to be more of the spirit of revision exercised by the senate, in order to prevent the passing of improper bills. He

appealed to every gentleman who heard him, who had had any experience in the legislature, whether the senate do not feel themselves bound more particularly to look into the private bills? Whether the senate should not be relieved from that influence which is exercised by the borers? If the senate could not be trusted with the raising of the public revenue, they would at least consider themselves set apart by the constitution to control appropriations of the public money. When public money was raised, was it not essential that it should be properly and carefully appropriated? Was it not right that there should be one body to watch and see that the money was properly disbursed? He would ask gentlemen here, who had some knowledge of legislative business, whether there had not been more waste of the public means in making appropriations, than in raising revenue? When money appropriated was dispersed, there was no recovering it. But a bill to raise revenue may be repealed, or regulated, as may be beneficial to the public interest. If money appropriated, was wasted, no remedy was to be had. He begged gentlemen to turn their attention sincerely and closely to this subject, and he would then ask them if they did not see the necessity for drawing a broader distinction between the two houses.

It was the ruin of the French republican spirit,—it was the very means of the destruction of the republic of France, that their two houses were merged in one. This ought to prove an instructive lesson. One body should be distinct from the other, in order that one might be a check on the other. They should be a check on each other, and that only could be by giving power to one and not to the other. The gentleman from Centre, (Mr. Smyth) for whom he entertained much respect, told the convention, that the senate would have nothing to do. Now, that was no argument. Allowing that they would have nothing to do, it was better that they should do nothing, than do what was useless, or injurious. But, he would ask, would they not be employed in passing upon the appointments of the governor? According to the amendments already made to the constitution, the senate would have to act on the nominations of the governor, which would furnish them with employment enough, while bills were being concocted in the other branch of the legislature. He knew of no subject in which there was more traffic and trading done between the two houses, than in the appropriation of the public money. The lynx-eye of cupidity was always ready to seize on the public treasure. He did not think that the legislation of our legislature ought to be termed fraudulent, for the term did not apply to it. There was no fraud. He attributed the bad legislation we sometimes had, to the inequality of the power of the two bodies. He knew that a great additional expense was entailed on the public, in consequence of appropriation bills originating in both houses. He would leave it to the good sense of the convention to adopt or reject the amendment that he had offered. For himself, he considered the amendment of much greater importance, than he knew some gentlemen were disposed to regard it.

Mr. CUNNINGHAM, of Mercer, said the gentleman from Franklin, (Mr. Dunlop) had sprung an amendment on the convention without notice, without allowing time for due deliberation and reflection. When amendments were offered, they should lie on the table a certain time, in order that members might have an opportunity of examining them, before being

called upon to vote. He was entirely opposed to engrafting any thing on the constitution, until it was well weighed, and considered by every delegate. He thought he could shew the gentleman from Franklin, at one view, that his amendment ought not to be agreed to. For instance, what meaning was to be attached to the word "appropriation?" As it stood in the amendment, it had no definite meaning. Did it mean an appropriation of land, or of money, or what else? Did the term "appropriation" mean a subscription of stock to a rail road company, or a canal; or in aid of the building of a bridge, the making of internal improvements, &c., which might be all considered appropriations. The word would certainly give rise to some doubt. This, then, was one reason why he was opposed to the amendment. No word or sentence of doubtful meaning, should find a place in the constitution, as it might hereafter, perhaps, be deemed necessary to obtain the decision of a court of law, or to call another convention for the purpose of rectifying the error or errors committed by this body.

He knew of no good reason that could be assigned, why the senate should be prohibited from originating bills, as it might be more convenient for them to do so, than the house of representatives, which might be occupied with other business, and not have sufficient time to consider them. He thought, too, that the senate would give to them an equally careful and attentive examination as the house. Besides, the business of the legislature would be thereby expedited. All bills for raising revenue, originate in the house of representatives. So they do in the house of commons, as stated by the gentleman from Franklin; but he did not go quite far enough, however, in order to make out his comparison between the different branches of the English government, and those of the government of the commonwealth of Pennsylvania. The house of commons was elected; the house of peers was appointed by the king; and the reason that revenue bills originated in the commons was, that the crown might have no control over the public purse, as would be the case if they emanated from the house of lords, over which body he would have more influence. Such an argument would not apply to the senate of Pennsylvania, over whom the governor had no more influence than over the other branch.

He (Mr. C.) regarded the senate as being at least, fully as capable of originating bills as the house. The members of the house were elected but for one year, and generally, from not having mixed with the people, or had the experience, or enjoyed the same opportunities as the senators, they knew little of the public wants. Indeed, he might say, that the senate was better able to judge of the wants and wishes of the people, than the house of representatives. In conclusion, he would say, that as respected the amendment proposed by the gentleman from Franklin, it would be to adopt a new principle in the constitution, and therefore he objected to it, for the reasons that he had already assigned. He would vote against it, as well as every other, the terms of which were so indefinite, vague, and inexplicit.

Mr Scott, of Philadelphia, would say a few words to justify the vote that he would give against the amendment of the gentleman from Franklin. He thought the provision in the constitution went quite far enough to prevent the originating of revenue bills in the senate of Penn

sylvania. He would not say it went too far, but it went as far as the genius of our government, and the nature of our institutions require. The provision was taken from that country, from which we had borrowed most of our institutions, and to which we were indebted for most of our civil liberties. The executive (or king, as he is called) of Great Britain, holds his office for life, and his power and authority are transmitted to his successors, in the regular order of succession. The nobility hold their seats in the house of peers for life, and their posterity after them. And, the fear was, that the king might, through the aid of the nobility, overthrow the liberty of the country, and get all the power into his own hands. To prevent this, however, the people had introduced into their constitution, a most powerful check, for they put the purse of the nation into the hands of the house of commons. Therefore, it was said in Great Britain, that revenue (not appropriation,) bills could only originate in the house of commons. It was to be remembered that the members of that body, holds their seats for seven years, unless the king should dissolve the parliament, before the expiration of that time.

In England, then, we see that revenue bills originate with the popular branch, having the benefit of experience and possessing an intimate knowledge of the wants and necessities of the country. But, in the state of Pennsylvania, there was no executive for life, nor was there any senate for life. In the lower house, the members retained their seats only a single year; and consequently they had not that check on them, which the experience of legislation gave to the body of which he had spoken. He conceived, however, that there was nothing in the composition of either branch of the legislature, that could create any apprehension in the minds of the friends of liberty. He thought that the house of representatives did require the aid of the senate, which had had more experience. The senate of Pennsylvania, as had been remarked by a delegate, on this floor, was in its constitution quite as democratic a branch as the lower house. Perhaps it was more so. What, he (Mr. S.) would ask, was the true test of a democratic vote of Pennsylvania, upon any topic? The majority of all the votes of the state. It concentrated the whole votes of commonwealth, on any given subject whatever. A majority of the whole vote was the democratic vote of the state of Pennsylvania. The truth was, that the more we receded from that vote, the more we receded from the democratic principle. In the election of our senators by districts, each composed of several counties, we approached nearer to the democratic principle, than by electing our representatives from single counties. The larger the districts, the nearer was the approximation to the democratic principle.

The basis of the argument of the delegate from Franklin, (Mr. Dunlop) he admitted, viz: that each branch of the legislature ought to be a check on the other. But he could not concur in his conclusion, that we ought to limit the duty of the senate, simply to revising bills, involving appropriations. He (Mr. S.) apprehended, that the house of representatives were just as well checked by learning the views of the standing committees of the senate, as they would be by the amendments of the body itself; and perhaps better. In what manner was the action of one branch to be checked by that of the other? Why, by a comparison of the measures proposed by each on any subject, and by examining whether the details

were carried out. Each house would then be enabled to judge which was right, and which was wrong. The gentleman from Franklin had proposed an amendment, prohibiting the senate from originating appropriation bills; or, in other words, to take away from the senate the power of proposing their own views in relation to the expenses—the finances of the commonwealth. He was giving all the power to the house of representatives. The constitution gave power only to the house, to originate revenue bills, but the senate was allowed to exercise its power as to the expenditure of the public revenue.

Were the senators less cautious men? Were they more likely to be influenced by passion? Were they more open to undue persuasion, than the members of the lower house? On the contrary, did we not require from them greater age, more confirmed intellect, more improved mental powers? And, were they not men less liable to be influenced by passion or prejudice, or undue persuasion? He apprehended that if the senate was entrusted with originating appropriation bills, concurrently with the house, there would be less probability of wasteful appropriations being made, than if one body only exercised the power. This was merely the principle of the matter. Let us look at the practice and see how it works.

There were, as we all knew, a great number of appropriation bills passed every year, involving an enormous amount of money, perhaps two, three or four millions of dollars, and they required the calmest and coolest deliberation. Now, if all those bills were to originate in the house of representatives alone, they would be retained by it as long as it pleased, and would not, perhaps, be taken up until the last month, or fortnight, or week of the session, when they were to be calmly and deliberately considered, and passed through a first, second and third reading, all in that space of time, too! How, he asked, was business managed now? Why, the bills were being acted upon in both houses at the same time; and when a bill was amended, or passed, it was sent to the other body for its concurrence, or any other course, it might think proper to adopt.

He apprehended that if the legislation of Pennsylvania was examined, it would not be found that more wasteful appropriations had been made by the senate than the house of representatives. He was aware that a great deal of money had been wasted—had not been as judiciously applied as it might have been under other circumstances. But, then, it was to be recollected that Pennsylvania was making an experiment, and that all men have to pay a penalty for their experience. We, of Pennsylvania, were pioneers in the great work of internal improvement; and he (Mr. S.) felt certain, that if we were to begin *de novo*, our experience would cost us about the same amount of money. He did not consider the appropriations as wasteful, though they might not be altogether judicious. They, nevertheless, greatly contributed to the welfare and glory of this commonwealth.

He had one word to say as to the remark of the gentleman from Franklin, in reference to that much abused class of men called “borers,” whom he complained of as being a great annoyance to the members of the senate. He (Mr. S.) begged to inquire who were those individuals, that were thus denominated. Were they not our fellow-citizens? And, had

they who sent their senators to the legislature, no right to ask them the favor of being heard as to their views? Had they who put those men in office, no right to be heard by petition, or private conversation? Was it a fact that members of the senate, or the house of representatives, were alike to be at liberty to reject information which a citizen might wish to give in reference to a particular subject before the legislature? He apprehended that if our legislators were to act in that manner, they would violate one of the great principles which lie at the foundation of our republican institutions. The complaint, if there was any ground for it, would apply more particularly to the house of representatives than to the senate.

Another reason why he objected to the amendment of the delegate from Franklin. When a senator returned home, at the close of the session, it was presumed that he would not dismiss from his mind his public duty, if he had to go to the legislature at its next session; for, his reputation as a public man, was at stake. If he was an ambitious man, and desirous of performing his duty faithfully, he would retire to his chamber or his closet, and reflect on what had been done at the past session, and what might be effected at the next. Then, having his books and papers around him, he might prepare the measures which he proposed to submit at the next meeting of the legislature. How was it with a member of the house of representatives, when he ceased to be a public man and his duty was fulfilled? Why, he devoted himself, with assiduity and zeal to the management of his private affairs; and if he should ever be re-elected to fill the same station, he would return to Harrisburg with, at least, the knowledge he had there obtained, and a mind somewhat benefitted, from having been in public life.

Look at the house of representatives of Pennsylvania: three-fourths were, from year to year, new men, inexperienced in legislation, and ignorant of the interests of Pennsylvania. Now, what, he asked, would be the effect of the amendment of the gentleman from Franklin? It would be to throw into the hands of eight or ten men, the power of originating bills. Every one must see that, practically, a very few individuals, by means of their superior knowledge of legislation, would have the control of the legislation of the lower house. This, in point of fact, would be the working of the amendment.

One half of us have been members of public bodies. We all recollect how we were obliged to pore over documents relative to revenue, and other subjects, before we were prepared to act understandingly in the discharge of our duties. We cannot be prepared to act on all points without some consideration. How is a man of three months' experience, to understand your whole revenue system? Your system of internal improvement, and your various appropriations for different objects? To no body should we look for the requisite experience, with more confidence, than to the members of the senate. This body ought not to be held up in an odious light to the people; but in that light they would stand, if they were to exercise only a veto duty in regard to the appropriations made by the house. If they are merely to exercise a revisory power, and do nothing but to check appropriations, they will be very obnoxious to the people. Let them judge in the first instance; let them have the opportunity of originating bills for the relief of the aged soldier.

as well as the house. Give them the same opportunity to start schemes of internal improvement, and of general utility ; let them, in fine, as under the present constitution, form a useful and efficient part of the legislative branch of the government. But the measure now proposed, instead of this, will lead to the degradation and destruction of the usefulness of that body.

Mr. HAYHURST said, the amendment would, perhaps, produce a result precisely opposite to that which was intended. All bills for individual purposes of appropriation, may originate in the senate. He would suggest to the mover the modification of the resolution, so as to say "or," instead of "and." If so modified, it would be indifferent to him whether it passed or not. There seemed to be a strong disposition on the part of the house to favor the amendment.

Mr. DUNLOP modified the amendment accordingly.

Mr. BEDFORD moved the previous question.

Mr. DUNLOP asked if the previous question would not cut off the amendment.

The CHAIR replied that it would.

The previous question having been sustained, and the question being, "Shall the main question be put?"

The yeas and nays were required by Mr. DUNLOP, and Mr. DICKEY, and are as follow, viz :

YEAS—Messrs. Agnew, Baldwin, Banks, Barclay, Barndollar, Barnitz, Bedford, Bell, Biddle, Brown, of Lancaster, Brown, of Northampton, Carey, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clarke, of Beaver, Clark, of Dauphin, Cleavinger, Cochran, Cope, Cox, Craig, Crum, Darlington, Dickey, Dickerson, Dillinger, Donagan, Donnell, Earle, Farrelly, Forward, Fuller, Gearhart, Gilmore, Harris, Hastings, Hayhurst, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, High, Hought, Hyde, Jenks, Keim, Kennedy, Kerr, Konigsmacher, Long, Magee, Martin, M'Cail, M'Sherry, Merkel, Miller, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Purviance, Reigart, Royer, Russell, Saeger, Seltzer, Serrill, Sill, Smyth, of Centre, Snively, Sturdevant, Thomas, Todd, Weidman, Woodward, Sergeant, *President*—77

NAYS—Messrs. Bigelow, Brown, of Philadelphia, Clarke, of Indiana, Craia, Crawford, Cummin, Curll, Dunlop, Fleming, Foulkrod, Gamble, Grenell, Helffenstein, Hopkinson, Ingersoll, Krebs, Lyons, Mann, M'Cahen, M'Dowell, Meredith, Overfield, Payne, Read, Riter, Scheetz, Sellers, Shellito, Smith, of Columbia, Sterigere, Stickel, Taggart, White—33.

So the question was determined in the affirmative.

And the report of the committee, so far as relates to the twentieth section, was agreed to.

The twenty-first section was read as follows :

"SECT. 21. No money shall be drawn from the treasury, but in consequence of appropriations made by law."

Mr. EARLE moved to postpone the further consideration of the said section, for the purpose of inserting the following new section, viz :

"SECT. 21. Charters of incorporation hereafter granted, shall be subject to modification and repeal, by the concurrent act of two successiv-

legislatures, in such manner, and on such considerations as such legislatures may deem equitable and expedient."

And on the question,

Will the convention agree so to postpone?

The yeas and nays were required by Mr. EARLE, and Mr. GRENELL, and are as follow, viz :

YEAS—Messrs. Banks, Bedford, Bigelow, Brown, of Nothampton, Clarke, of Indiana, Crawford, Curll, Darrah, Dillinger, Earle, Fleming, Foulkrod, Fuller, Gamble, Gilmore, Hastings, Hayhurst, Krebs, Lyons, Magee, Mann, Martin, Miller, Overfield, Payne, Read, Riter, Scheetz, Sellers, Shellito, Smyth, of Centre, Stickel, Taggart, White—34.

NAYS—Messrs. Agnew, Baldwin, Barclay, Barndollar, Barnitz, Biddle, Brown, of Lancaster, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clarke, of Beaver, Clark, of Dauphin, Cleavinger, Cochran, Cope, Cox, Craig, Crain, Cram, Cummin, Cunningham, Darlington, Denny, Dickey, Dickerson, Donagan, Donnell, Farrelly, Forward, Gearhart, Harris, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Heister, High, Hopkinson, Hought, Hyde, Ingersoll, Jenks, Keim, Kennedy, Kerr, Konigsmacher, Long, McCall, McDowell, McSherry, Meredith, Merrill, Merkel, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Purviance, Reigart, Ritter, Royer, Russell, Saeger, Scott, Seltzer, Serrill, Sill, Smith, of Columbia, Snively, Sterigere, Sturdevant, Thomas, Todd, Woodward, Sergeant, *President*—76.

So the question was determined in the negative.

Mr. MARTIN moved an adjournment. Lost.

The twenty-first section being still under consideration,

Mr. MANN moved to amend the same, by adding thereto the following :

"And a regular statement and account of the receipts and expenditures of all public moneys, shall be published from time to time."

Mr. MANN said, this was a copy of a provision in the constitution of the United States, and he should like to see the provision adopted in the constitution of this state. All public accounts and transactions ought to be open for public inspection. He hoped the convention would consent to make the constitution correspond, in this particular, with the constitution of the United States.

The motion was disagreed to.

Mr. FULLER moved to amend the section, by adding to the end thereof, the following, viz :

"Not more than one bill, or act of incorporation, or appropriation, either similar or dissimilar, shall be combined together in one law."

Mr. FULLER said, he offered this amendment, in the belief that a large majority of the convention were in favor of adopting some restriction of this sort upon the legislature. The only difficulty, was in framing an amendment that should be so distinct, as to admit of no difference of construction. The principle involved in the measure, was one of great magnitude. Must laws be passed by the legislature upon their own merits, or upon the merits of other bills?

In consequence of the system of log-rolling, many laws are passed annually, which the people of this commonwealth did not wish to be passed. With very few exceptions, the appropriations are made by combinations of interests. Many of them are, no doubt, proper, and might have been carried through upon their own merits. But a large number of the bills were of a character that could not have been passed upon their own merits, but were got through, by being attached to other bills, at the last hour of the session. On the last night of every session, every gentleman is busy in offering his projects as amendments to the bills. When ten or fifteen of these amendments are tacked to the bill, and when many members have retired, in consequence of the lateness of the hour, the bills, with nobody knows what provisions, are passed by these combinations. This practice has been looked upon in every part of the state, as a great evil. The abuse is gaining ground, and before fifteen years, will become an established practice, unless it be checked by a constitutional provision. All projects of doubtful utility will be put off till the close of the session. Then gentlemen will get one good bill as a leader, and tack a dozen to it, and carry the whole through.

The gentleman from Mercer has told you that he considered this as a great evil. The senate, on its part, made a rule that bills should not be tacked together, but the house had never adopted it. This shews the necessity of placing something in the constitution which the practice of the legislature cannot break down. It must be admitted by every one that this is a crying evil, and that it ought to be abolished. In regard to the subject of appropriations, particularly, the practice is a very dangerous and corrupt one, as it enables combinations of interests to force the most odious and extravagant appropriations upon the legislature. Every bill, in fact, whether for appropriations or other purposes, ought to stand or fall upon its own merits, and for this reason, he had offered the amendment.

Mr. BIDDLE said, the amendment involved very important matter, as it introduced an unceasing topic of litigation, in regard to the constitutionality of laws. Suppose a case of a divorce bill. The second section may contain a provision for the support of the wife. It might be objected that the two subjects were distinct, and that the law was, therefore, unconstitutional. This principle was decided yesterday, and if we mean to get through our work we must suffer our decisions to stand longer than one day.

The said amendment being still under consideration,

On motion of Mr. FLEMING,

The Convention adjourned till half past 3 o'clock P. M.

TUESDAY AFTERNOON, JANUARY 9, 1838.

The **PRESIDENT** presented a communication from the Colonization Society, of Philadelphia, inviting the members of the convention to attend a meeting of that society, this evening.

ORDER OF THE DAY.

The convention resumed the second reading of the report of the committee, to whom was referred the first article of the constitution, as reported by the committee of the whole.

The convention resumed the consideration of the amendment, offered by **Mr. FULLER**, to the 21st section, viz :

“ Not more than one bill or act of incorporation or appropriation, either similar or dissimilar, shall be combined together in one law.”

Mr. FULLER withdrew the amendment for the present, declaring his intention to offer it again.

Mr. CLARKE, of Indiana, moved to amend the section, by inserting after the word “ treasury,” in the first line, the words “ by resolutions of the legislature, nor in any other way ;” and by inserting in the second line, after the word “ of,” the word “ special.”

Mr. CLARKE said, he was not so certain that this amendment would be any better received than those which were offered this morning ; but, he felt it to be his duty to offer it. He felt it to be necessary, and he wished that he had more time to convince this body, that his views were correct. It was necessary to prevent money from being drawn from the treasury, in any other manner, than by special law.

He had no doubt that when the committee framed this provision, they meant to provide that an act of appropriation should go through all the forms which were necessary to a law, and the object of his amendment was to express this the more distinctly, on the face of the constitution. He would appeal to every one who heard him, if the abuse against which he proposed to guard, had not grown up, and gradually increased, with the growth of the internal improvement system. Joint resolutions of the legislature had the effect of law, without being passed with all the formalities of other laws, passed by the legislature. A second reading and the consideration of a resolution is asked for, and it is adopted without debate, or with but very little debate, and is sent to the other house for concurrence, where it is acted upon, in the same manner, and on the same day. He had known cases in which large sums of money were, in this manner, drawn from the treasury, without any act of appropriation, and sometimes very improperly drawn.

Those who had no claim in equity, and could not stand the ordeal of the accounting officers, sometimes brought a claim upon the state, through the legislature, where they could always find some friends. It was such

cient for claimants to say, that the canal commissioners had done them injustice, and they could, with the aid of a few friends, get a resolution reported from the committee, and have the resolution passed through both branches, without much consideration. A resolution would thus slip through, unsettling all the principles upon which such accounts were settled.

He could speak more particularly of cases, arising under the system of internal improvements, because with them he was acquainted. But, the same course of things took place in reference to other claims. He did think that, in drawing money from the treasury, we ought to require the formalities of law.

He offered the amendment just as it struck him, but if any other gentleman could put it into a different form, that would be more acceptable to the body of the convention, he would cordially concur in it. The principle which he wished to see established, was, that all money drawn from the treasury, should be drawn in the form prescribed by law.

The question being on the adoption of the amendment, Mr. CLARKE asked for the yeas and nays.

Mr. STERICERE suggested to the gentleman from Indiana, a change in the amendment—to substitute the phrase “but only in consequence of,” instead of “any other way,” and leave out the word “special.” He believed the gentleman’s object was to provide that only one appropriation should be made in any one act.

Mr. CLARKE said, it was not the intention of this amendment to prevent the legislature from putting more than one appropriation in any one act, and he declined accepting the amendment.

Mr. REIGART said, a joint resolution was precisely the same as a law, and laws were often passed with as little consideration as joint resolutions. According to the manner in which things were done in the legislature, as he understood them, it would amount to the same thing, whether the appropriation took the form of a law or of a joint resolution. The amendment would, therefore, effect nothing. Bills have to go through but two readings in the house, and the third reading is a matter of mere form, so the form of a joint resolution is just as safe as that of a bill. He hoped the amendment would not be adopted, unless some further reason could be given for it.

Mr. FORWARD asked whether one branch of the legislature was not to be allowed to draw money from the treasury for its contingencies?

Mr. CLARKE did not think, he said, that either branch of the legislature ought to draw money out of the treasury, unless by law, in the usual form. Money was always appropriated by law, for the purposes of the two bodies.

Mr. DICKEY was favorably disposed towards this amendment, if it would reach those objects which it was intended to reach. He believed abuses had grown up, in both branches of the legislature, with regard to their contingent expenditures, in consequence of the funds being put at their disposal, by general laws.

The amendment of the gentleman from Indiana will cut off some of the appropriations for objects not called for; such, for instance, as the purchase of Purdon's Digest by resolution, and various other expenditures of a similar nature.

This amendment will cut off that kind of expenditure, because it would require the passage of a law, for the purpose, or at least the passage of a law, to put the money at their disposal, and, so far, it would do good. It would also reach a great many other unnecessary expenditures of either house. Within a few years, travelling committees have been got up during the holiday season, and at other times, for the purpose of visiting the public institutions and public improvements of the state. A simple resolution of either house authorizes this, and, upon their return, a simple resolution makes the appropriation to defray their expenses, and the amendment of the gentleman from Indiana would cut off this kind of appropriations. He thought it entirely proper, that, at times, committees should be appointed to visit our public institutions, and examine into the conduct of our public officers; but, at the same time, he thought, these expenses should be paid, if they were paid, by appropriations made by law, and that no money should be drawn from the treasury, but in consequence of appropriations made by law.

In his opinion, the amendment of the gentleman from Indiana would accomplish something, and because it would accomplish something, he would give it his hearty concurrence. He considered it a good amendment, so far as it went, and only wished that it had gone farther.

Mr. MEREDITH was sorry he could not agree with the gentleman from Indiana, as to the propriety of adopting this amendment, and he was the more sorry, because from that gentleman's great experience, he had always been disposed to give great weight to his opinions. The object of the amendment, as avowed by the gentleman, was to prevent appropriations of money from being made by a joint resolution of the two houses. Now, in some cases, this might do very well, but cases might occur in which it would, in his opinion, do much more injury than all the good that could be anticipated from it.

He would suppose a case, which, if it had not happened, it might very readily happen, where an immediate appropriation was needed for some great public object, within three or four days of the close of the session of your legislature. Well, in the first place, by your rule, no new bill can be originated at that late period, and in the next place, it could not pass between the two houses. Then, for the purpose of getting it up, two-thirds of your legislature will be required, because it required that number to dispense with the rules.

Now, the gentleman from Indiana, as well as himself, had seen the time in your legislature, when it would have been impossible to get two-thirds of both houses of the legislature, to suspend their rules, for the purpose of making an appropriation, if any of the internal improvements of the state had gone to destruction, for want of that appropriation. What, then, was to be done in such cases? Why, sir, in such cases, the passage of a joint resolution, by a majority of both houses, might do more good in one year, than all the improper appropriations, which were ever likely to be made, could do in twenty years.

With regard to the contingent expenses of the two houses, he hoped never to see the day when one house could refuse to the other, an appropriation to carry on an important investigation, which it might consider it to be its duty to institute. Neither did he ever desire to see the power of the legislature to make appropriations for important purposes, trammelled by any provision, which would give one-third of the body, an opportunity of defeating the wishes of the body.

Under the existing laws of the state, appropriations were made to pay the salaries of the governor and heads of departments, and defray the expenses of your legislative bodies, by general laws for that purpose. For instance, there is a general law, directing the state treasurer to pay out of any money in the treasury, the officers at the head of the government of the state. Then, there is a general law, authorizing the treasurer to pay out of any moneys in the treasury, the salaries of members of the legislature, and the contingent expenses of the two houses, and this he took to be the best system which could be adopted in Pennsylvania; because, if the amendment pending prevailed, in case the house of representatives should propose to go into an important investigation, the senate might take the popular ground of curtailing the expenses of the government, and deny the house the means of carrying on the investigation. Again, if the two houses were desirous of carrying on some expensive investigation, which might be of the utmost importance to the commonwealth, but which was disapproved of by the governor, he might refuse to give the bill his signature, making the appropriation to carry it on, and the whole inquiry would be defeated. The same case might occur between the two houses, in a case of impeachment before the senate. For the purpose of defeating the whole proceeding, one branch may refuse to concur in the appropriations for the purpose, or the governor might refuse the bill his signature, and the whole matter would fall to the ground.

Now, he never desired to see the time when our legislature might be prevented from making an inquiry into the conduct of a public officer, or an important inquiry, in relation to any other matter, in this way. The house of representatives or the senate, when they institute inquiries of this kind, do it upon their responsibility to the people, and so long as they do that, he thought that with them ought to rest the responsibility. His opinion was, that both bodies ought to have this responsibility resting upon themselves, and that it was a matter between them and the people, whose immediate representatives they were. This was where he would let the matter rest, and this he believed to be the best place for it to rest.

It seemed to him that it would be entirely improper to permit one body of the legislature to control the other in matters of this kind, and that it would be equally improper to allow the governor to control them both. Yet this must inevitably be the case, if a special appropriation is to be made for every expenditure of the government of the commonwealth. He must, therefore, differ in opinion from the gentleman from Indiana, as he did with great deference, and vote against the amendment submitted to this section.

Mr. CHAMBERS said he understood the object of the mover of this amendment to be, to restrain the two bodies of the legislature from disposing of their contingent fund to meet the necessary expenses to which

it was incident, and to which there had been a general appropriation by law. He believed there was a general law, making an appropriation for the contingent expenses of the two houses of the legislature, but the disposition of that fund was with the two houses themselves. This was a check upon them to be sure, but expenditure of the fund, in its details, is necessarily left to the discretion of the two bodies, and they expend it upon their responsibility to the people; and this, he thought, was the best way in which this matter could be arranged, and the way in which it was convenient to all parties concerned. But the gentleman from Indiana alleges, that there is an evil in this matter; that the legislature expends more money for contingent and other expenses than is necessary, and that some greater check should be placed upon them. Well, sir, what is the remedy which the gentleman proposes? Why, it is, that no money shall be drawn from the treasury by a resolution of the legislature, and none shall be drawn but in consequence of appropriations made by law. Now it seemed to him, that there was an incongruity in this amendment. Money was not to be drawn from the treasury upon a resolution. Now a resolution of the two houses, or in other words, a joint resolution, was certainly a law, and was always considered as such. It was introduced like a bill, read twice or three times, he was not certain which, sent over to the other body, and received the same number of readings there, and then received the signature of the governor. Most certainly, then, it had all the essential requisites of a law, and he believed had been considered a law, and had been so decided. Then you would have, in the first line of your amendment, that no money should be drawn from the treasury by a law of the legislature, and in another line of the same amendment, you would have it provided, that no money shall be drawn from the treasury but in consequence of appropriations made by law. This most assuredly was an incongruity, when you came to consider that a joint resolution of the two houses was a law. This incongruity seemed to him, to be totally irreconcilable, taking joint resolutions to be laws, as he took them to be.

Again, he had another objection to this proposed amendment. It was proposed by it, that no money should be drawn from the treasury, but in consequence of *special* appropriations made by law. Now, what was the meaning of this word *special*, as used in this amendment, and what were to be its limits? When does an appropriation cease to be general, and when does it become special, and would there not be a great deal of uncertainty in relation to it? An appropriation might be looked upon by some as general, while it involved in it a variety of specifications; and it might be looked upon by others as being special, because it contained specifications, and thus you might go on and involve yourself in difficulties *ad infinitum*. It seemed that this amendment was of a nature that it ought not to be adopted, because, constitutional provisions ought to be clear, explicit, and such as there could be no doubt raised in relation to them. Therefore, he trusted that it might not be adopted.

Mr. STERIGERE felt some difficulty in relation to this amendment, which he had hoped to remove by the modification he had suggested, if the gentleman had accepted of it. The inconsistency which he saw in the amendment was even greater than that pointed out by the gentleman from Franklin. The amendment went on to say, that no money

drawn from the treasury by resolutions passed by the legislature, *or in any way*; and after this, it goes on to say, that no money shall be drawn from the treasury, but in consequence of appropriations made by law. Now he felt disposed to go for this amendment, provided it could be put in a form that he could approve of; but if it would have the effect to prevent investigations from being instituted in either branch of the legislature, into the conduct of public officers, or in relation to any other matter of public importance, by withholding the appropriations necessary to carry them on, he certainly could not give it his support. But so far as it might go to curtail the unnecessary expenditures of the legislature, he would be in favor of it. He must say, however, that he could not give it his support as it now stood.

Mr. CLARKE, of Indiana, said he should be very glad to get the vote of the gentleman from Montgomery, but he could not see that the modification which he proposed, changed the amendment in any essential particular. He thought that it was just as good without the modification as with it, and therefore he could not see the necessity of accepting it. With respect to the objections of the gentleman from Franklin, he did not think there was much in them; and although the gentleman has raised some little cavil about joint resolutions being laws, and about the incongruity of the amendments, still he did not believe, if this amendment was adopted, and the gentleman acting as a judge under this provision of the constitution, that he would have any difficulty in construing it. The gentleman has contended that joint resolutions were laws. Now, we all know, that joint resolutions are not laws; and that they do not receive that deliberate consideration in your legislature which laws receive; that they do not require to be reported in committees, and go through three regular and separate readings as laws do; that they are not called laws, and that they are not published in your volume of laws, as laws, but, at the end, as resolutions. He believed, therefore, that there would be no difficulty in relation to this matter.

With respect to the objections of the gentleman from the city of Philadelphia, (Mr. Meredith) he did not think them entitled to any very great consideration. What were the gentleman's objections? Why, that at the end of the session, after you got past that time when bills could no longer be originated by the rules, an appropriation might be needed, which could not be passed without the concurrence of two-thirds of the two houses. Well, now, we all know that the rules of the two houses, were rules made for their own convenience, and if it is desired to alter one of those rules, it can be done just as you would alter one of the rules of this convention, not by two-thirds, but by a majority. The course to be pursued was, to lay a resolution on the table one day, and the rule could be altered by a bare majority. In this way then, the legislature could at any time dispense with their rules, for the purpose of making an appropriation for a public object. In fact, it had been a remark of a gentleman, who had a great deal of experience in the legislative bodies of our states, that if he could get fifty-one members of the house to stand by him, he could carry any thing, no matter what the rules said to the contrary. This difficulty would not stand in their way, and this objection to the amendment must fall to the ground. He took it, if there was a special act passed, setting apart so many thousand dol-

lars for the salaries of the governor and heads of departments ; and so many thousand dollars for the pay and contingent expenses of the two branches of the legislature, that it would have a very salutary effect. It was not his intention, however, by the insertion of the word special, to have a separate law passed for every dollar which might be expended for any particular object. He knew, however, that the contingent expenses of the two houses had increased enormously.

The expenditure of the government, for the last year, he believed, amounted to about two hundred and seventy-five thousand dollars, and he had understood that one of the greatest items of increase was in the contingent expenses of the two houses. They had got into the habit of buying a great many things, of late years, which never were purchased before, which added to the expenditures of the two houses, and this was what he wished, in a great measure, to guard against. This was one of the objects which it was desired by him to accomplish by this amendment. But he confessed, that his principal object was to prevent those drafts being made on the treasury, which had heretofore been made, by persons who had very slight claims upon the commonwealth, and some, who perhaps, had no claims at all. He had known many thousands of dollars drawn from the treasury upon resolutions, much of which he believed to have been improperly drawn from it, and those who were most active in drawing money from the treasury in this way, were generally most loud in their complaints against the administration and officers of the governments for their extravagance. All he asked by this amendment was, that all money might be drawn from the treasury on acts which passed the legislature with all the usual formalities, and not upon resolutions which slipped through frequently, no one knew how. This plan he believed, prevailed in congress, and he had understood, that separate appropriations were made there, for the pay of the officers in each of the departments, separately and apart. So much for one department, and so much for another department, and so much for a third department, and that none of the officers in these departments could receive their pay until these appropriations were made.

Mr. REIGART, begged leave, before the vote was taken, to call the attention of the convention to the twenty-third section of the first article of the constitution, as follows :

“ Every order, resolution, or vote, to which the concurrence of both houses may be necessary, except on a question of adjournment, shall be presented to the governor, and, before it shall take effect, be approved by him, or being disapproved, shall be repassed by two-thirds of both houses, according to the rules and limitations prescribed in case of a bill.”

Mr. DENNY said, there appeared to him to be a difficulty in regard to the amendment of the gentleman from Indiana. It applied to many necessary and legitimate objects of appropriation. Locomotive engines, for instance, were put upon the Columbia road, upon an emergency, by resolution.

The trade and finances of the country were some times embarrassed, because there were not locomotives enough upon that road. If the canal should break away, and the contingent fund be exhausted, the legislature would be applied to for an appropriation, and the form of a joint resolution

would probably be adopted for convenience. He did not know that it was any great evil for the legislature to grant copies of Purdon's Digest. At all events, it was not a sufficient reason for altering the constitution. A joint resolution, of appropriation, goes through all the formalities of law. It goes through the various readings, and then is submitted to the governor for his approbation—a law has no other formalities. The only difference between the two forms, is in the enacting clause. One says, "be it resolved" and the other "be it enacted," &c. He did not like the proposition of the gentleman from Indiana, because it implied that the money was drawn, without proper authority. The attempt of the gentleman to cure what he supposes to be an evil, is an interference with the rights of the people. Are the rights of the citizens to be lost, because the legislature expend a few hundred dollars for unnecessary purposes?

Mr. FORWARD said, one object of the amendment was to prevent the wasteful expenditure of public money, by the two branches of the legislature, upon objects connected with their duties and contingent expenses. This would have the effect to place the house of representatives under the supervision and control of the senate, in regard to the duties peculiar to it. They could not draw for any deficit in their pay or expenses, without the concurrence of the senate. The house cannot institute an inquiry into the conduct of officers who have abused their trust; they cannot send out a committee, nor summon a witness, without the assent of the senate to the resolution, drawing money for the object. We might as well put into the constitution, at once, a clause providing, that the house of representatives shall not send out travelling committees, and shall not institute any investigation into abuses, as to adopt this amendment.

Mr. KERR, was willing, he said, to admit that the contingent expenses of the legislature were large, too large, but how must all necessary expenses come out of the treasury? He supposed, when the gentleman first offered the amendment, that he intended to provide by it, that no money should be drawn from the treasury, except by special act of the legislature, and that one law, for instance, must be passed for the expenses of stationary, and another to cover the expenses of fuel, to warm them, and another for candles to light them.

[Here all the gas lights of the hall were simultaneously extinguished.]

And, continued Mr. KERR, if you cut them off from the power of making an appropriation, they will be situated just as we now are, left in total darkness. They cannot have their supplies without the passage of a special act for each of them. Who was to pass the laws for the contingent expenses of each body, the body that is to pay the expenses, or, the body that knows nothing about them? Suppose a law be passed, appropriating so many thousand dollars for contingent expenses of the senate and house of representatives. Suppose it be spent, where are you? Do you suppose they will make it too small, if, when it is spent, they cannot supply a deficiency? The probability is, they would make it larger than necessary, and then spend all. Instead, therefore, of diminishing the evil, the amendment suggested would increase it. It would increase, instead of diminishing the expenditures of the legislature.

The question was taken on agreeing to the amendment, and decided yeas 38 ; nays 79, as follow :

YEAS—**MESSES.** Barclay, Bedford, Bigelow, Brown, of Northampton, Brown, of Philadelphia, Clarke, of Indiana, Cleavinger, Crawford, Cummin, Curll, Darrah, Dickey, Dillinger, Doran, Dunlop, Earle, Fleming, Fry, Gamble, Grenell, High, Keim, Kennedy, Krebs, Lyons, Mann, M'Cahen, Miller, Read, Riter, Ritter, Scheez, Sellers, Shellito, Smyth, of Centre, Stonigere, Stickel, Woodward—38.

NAYS—**MESSES.** Agnew, Baldwin, Banks, Barndollar, Barnitz, Bell, Biddle, Brown, of Lancaster, Carey, Chambers, Chandler, of Chester, Chauncey, Clarke, of Beaver, Clark, of Dauphin, Coats, Cochran, Cope, Cox, Craig, Crain, Crum, Cunningham, Darlington, Denny, Dickerson, Donagan, Donnell, Fairclly, Forward, Fuller, Gearhart, Gilmore, Harris, Hastings, Hayhurst, Hays, Helffenstein, Henderson of Allegheny, Henderson, of Dauphin, Hiester, Hopkinson, Houpt, Hyde, Ingersoll, Jenks, Kerr, Konigmacher, Long, MacLay, Magee, M'Call, M'Dowell, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Overfield, Payne, Pennypacker, Pollock, Porter, of Lancaster, Purviance, Reigart, Russell, Saeger, Scott, Seltzer, Serrill, Sill, Smith, of Columbia, Snively, Sturdevant, Taggart, Thomas, Todd, Weidman, Young, Sergeant, *President*—79.

So the question was determined in the negative.

MR. EARLE, of Philadelphia county, said, he rose under some embarrassment, on account of the course which had been pursued by his friend on the right, (Mr. Clarke.) It was very far from his inclination to trespass unnecessarily upon the patience of the convention. He was well aware that, at this late period, there was a much stronger disposition in this body to expedite the business before it, than to listen to long speeches even although the subject might be of the greatest importance to the interests of the people. But, he had heard that a good cause and a good conscience, would carry a man through any difficulty, he trusted, therefore, he should get out of his. He confessed that he felt under some embarrassment, because he saw such a feverish impatience manifested on the part of the delegates here, to dispose of this most important article of the constitution, which impatience, however, he trusted would be checked, as there were some important matters, having reference to it, that ought to be well weighed and considered before the convention adjourned. If the articles of the constitution were on their first reading, no doubt a suggestion would be made to put off any propositions a delegate might think proper to offer, until the second reading ; and now, at this late day, such was the disposition shown to get through our labors, that nothing like a reasonable time was to be allowed a member to propose an amendment—no matter how important it might be.

He was free to admit, that as the convention had fixed on a day of adjournment, no gentleman ought to offer an amendment, unless it was of great importance. And, whether it would be adopted or not, would depend upon the argument in support of it. He regarded the amendment that he was about to offer, as of the highest importance, and doubtless it would receive a vote according to its merits. It was in relation to public salaries.

MR. E. then moved to amend the section by adding the following :

“ No law shall be passed for increasing the salary or rate of fees of any public officer or person holding an appointment of public trust, except by the concurrent act of two successive legislatures, with the ~~consent~~ and

noes taken thereon, in each house of each legislature, and entered on the journals."

Mr. E. said, it would be at once perceived, that the amendment was offered to prevent an increase of the public salaries, as they would necessarily increase the public burdens. The object of the amendment, like most of our constitutional provisions, was to guard the legislature against a common, a besetting sin, to prevent hasty and improper legislation in that respect, and against which the legislature was not probably guarded, and was most likely to err, as it was an amiable weakness of human nature. He believed the experience of many members, not only of the legislature, but of congress, bore him out in the assertion, that many officers of the general and state governments, make application to have their salaries raised, from a feeling of interest only, and no other to support it. They make the acquaintance of members, to whom they make their solicitations, and offer arguments. But, we all knew, that when arguments and solicitations were offered on one side, the judgment was likely to be convinced or persuaded.

The common course of proceeding was this: An officer, say in the naval or military service of the United States, ascertains that he is not getting quite so high a salary as some other public officer, and hence he makes application, not that the salary of the other shall be reduced, but that his own shall be increased. And, sometimes, he estimates it rather too high for the class to which he belongs. A bill, perhaps, is then introduced and passed, for increasing the salaries of certain public officers; and then another is brought in to raise the salaries of other officers, because their's are not so high as those which had just been increased!

Now, he (Mr. E.) had always observed, that when an increase of pay was given to another class, it was generally in proportion to the preceding class. It would be found that reasons of this kind had been much more frequently alleged, and made the pretext for asking an increase of salary, than any relating to a discharge of public duties. He was one of those who believed that one of the most important principles of a republican government, was that of giving moderate salaries. Unless that principle was closely observed, he believed it to be impossible that liberty could long exist, or the public virtue and happiness be preserved. This was a strong declaration, but he would support it by authority, not less strong and entitled to the highest respect.

The effect of high salaries was to be considered, with respect to those who received them, and the station they occupied as connected with the public interest. Now, he would ask, what was the effect of high salaries on those officers that received them? Did they make them more honest, diligent, and faithful in the discharge of their duties? Did not high pay hold out an inducement to a man to be extravagant—to spend his time in amusements, perhaps, to the neglect of his business? Was it not a fact, that increasing a man's salary, raised him above his former condition—withdrawn him from the mass of the people, and, indeed, made him a *new being*? And, the sympathies, which he formerly felt, he ceased to feel. If he had been a democrat, and a friend of equality, he became an aristocrat: in fact, *any thing*, but a democrat. Could we expect a public officer, receiving a large salary, to adopt a system of general retrench-

ment and economy, in the expenditures of the government, so far as he had to do with them ? Could we have confidence in a member of congress, or any other public servant who professed to advocate an equality of rights—the principle on which self-government is based, if he, himself, was a specimen of inequality ? Certainly not. If we wanted public officers, who would be faithful to the principles of equality and liberty, we must not give them enormous salaries. The consequence of giving high salaries to those who administer the government was extremely pernicious. The salaries should be such that officers would accept of them at some sacrifice to the public interest ; then we should get such men as would serve, although with the uncertainty whether they would get any compensation at all, or not ; and, they would be as ready to turn out and defend our liberty. When you made office a sacrifice, then there would be virtue. But, so long as it was made desirable on account of the emolument which attached to it, and so long as it was made the means of public aggrandizement, just so long would there be corrupt men throughout the land, striving to reach high public stations. And, those scenes of contention and strife, which we had heretofore witnessed, growing out of the abuse of the public patronage, would again occur. We should, again, also, see falsehoods published in the newspapers against candidates for office, which we had already too often witnessed. High salaries had a pernicious effect upon the public morals. It was desirable, in a republican government, to cultivate general frugality and equality, among its officers and people, and to make poverty honorable. How, he asked, were we to make poverty honorable ? Was it to be made so only through the possession of wealth, and the augmentation of luxury ? A mediocrity between poverty and wealth, was best calculated to create honesty.

Honor was always attached to public places ; and, honor was frequently connected with poverty. Indeed, there was no shame, nor sin, in being poor. The community, at large, were not desirous, that public officers should indulge in wealth and extravagance ; and, it was not difficult to point out numerous instances of officers, in stations of great honor and trust, who live in the condition of humble citizens. The necessity of reducing the expenditures of the government was, alone, a consideration of sufficient importance, to forbid the idea of increasing the public salaries, the tendency of which was, also, to multiply the number of offices. He had, himself, known public offices to be created expressly for the purpose of putting men in them. Was it not, he asked, a notorious fact, that many of the great naval and military establishments of the government of Europe, were kept up, in order to afford places for the relatives and friends of those who held power in their hands ? By increasing the public salaries, a desire was created to establish offices for the sake of the salaries.

He believed, all the arguments that were advanced, at various times, entirely fallacious and utterly contrary to the truth, that it was absolutely necessary to give high salaries, if we wished to obtain capable, honest, and faithful officers. His opinion was, that if moderate salaries were given, men possessing more integrity and talent, would be got to fill the public offices.

From some observation, and much personal information, that he had

derived from various sources, he had ascertained, that, in those states of the Union where the salaries were lowest, there was the most talent, integrity, and faithfulness combined. Independent, however, of this fact, it was but right, that the legislature, in appropriating the public money, should have some control, in reference to the proper disposition of it. By the amendment which he proposed to offer, no increase could be made in the salary or rate of fees, of any public officer, unless with the concurrence of two successive legislatures. If one legislature should pass an act to increase the salaries of the public officers, and the people should approve it, they would instruct their representatives in the next legislature to vote for the act.

He asked leave of the convention, to allow him to read a few observations of the celebrated Dr. Franklin, whom he regarded as one of the greatest authors, and best patriots of the age in which he lived. And, as he (Mr. Earle) thought the opinions, he was about to read, might be new to a majority of the convention, they would like to hear them. He had himself, only recently met them. They were expressed in the convention that formed the constitution of the United States, and on the subject of the salary of the President :

“ It is with reluctance, that I rise, to express a disapprobation of any one article of the plan, for which we are so much obliged to the honorable gentleman, who laid it before us. From its first reading, I have borne a good will to it, and, in general, wished it success. In this particular of salaries to the executive branch, I happen to differ ; and, as my opinion may appear new and chimerical, it is only from a persuasion that it is right, and from a sense of duty, that I hazard it. The committee will judge of my reasons, when they have heard them, and their judgment may possibly change mine. I think I see inconveniences in the appointment of salaries ; I see none in refusing them ; but, on the contrary, great advantages.

“ Sir, there are two passions which have a powerful influence in the affairs of men. These are *ambition* and *avarice* ; the love of power, and the love of money. Separately, each of these has great force in prompting men to action ; but, when united in view of the same object, they have in many minds the most violent effects. Place before the eyes of such men a post of *honor*, that shall, at the same time, be a place of *profit*, and they will move heaven and earth to obtain it. The vast number of such places it is, that renders the British government so tempestuous. The struggles for these, are the true source of all those factions, which are perpetually dividing the nation, distracting its councils, hurrying it sometimes into fruitless and mischievous wars, and often compelling a submission to dishonorable terms of peace.

“ And, of what kind are the men, that will strive for this profitable pre-eminence, through all the bustle of cabal, the heat of contention, the infinite, mutual abuse of parties, tearing to pieces the best of characters ? It will not be the wise and moderate, the lovers of peace and good order, the men fittest for the trust. It will be the bold and the violent, the men of strong passions and indefatigable activity in their selfish pursuits. These will thrust themselves into your government, and be your rulers. And these, too, will be mistaken in their expected happiness of their situa-

tion ; for their vanquished competitors, of the same spirit, and from the same motives, will perpetually be endeavoring to distress their administration, thwart their measures, and render them odious to the people.

“ Besides these evils, sir, though we may set out in the beginning with moderate salaries, we shall find, that such will not be of long continuance. Reasons will never be wanting for proposed augmentations ; and, there will always be a party for giving more to the rulers, that the rulers may be able in return to give more to them. Hence, as all history informs, there has been in every state and kingdom, a constant kind of warfare between the governing and the governed ; the one striving to obtain more for its support, and the other to pay less. And, this has alone occasioned great convulsions, actual civil wars, ending either in dethroning of the princes, or enslaving of the people. Generally, indeed, the ruling power carries its point, and we see the revenues of princes, constantly increasing, and we see that they are never satisfied ; but always in want of more. The more the people are discontented with the oppression of taxes, the greater need the prince has of money to distribute among his partisans, and to pay the troops, that are to suppress all resistance, and enable them to plunder at pleasure. There is scarce a king in a hundred, who would not, if he could, follow the example of Pharaoh,—get first all the people’s money, then all their lands, and then make them and their children servants for ever. It will be said, that we do not propose to establish kings. I know it. But, there is a natural inclination in mankind to kingly government. It sometimes relieves them from aristocratic domination. They had rather have one tyrant than five hundred. It gives more the appearance of equality among citizens ; and that, they like. I am apprehensive, therefore,—perhaps, too apprehensive,—that the government of these states, may in future times, end in a monarchy.

“ But, this catastrophe, I think, may be long delayed, if in our proposed system, we do not sow the seeds of contention, faction, and tumult, by making our posts of honor places of profit. If we do, I fear, that, though we employ at first a number, and not a single person, the number will in time be set aside ; it will only nourish the foetus of a king—as the honorable gentleman from Virginia, very aply expressed it,—and a king will the sooner be set over us.

“ It may be imagined by some, that this is an Eutopian idea, and that we can never find men to serve us in the executive department, without paying them well for their services. I conceive this to be a mistake. Some existing facts presents themselves to me, which incline me to a contrary opinion. ‘The high sheriff’ of a county in England is an honorable office, but it is not a profitable one. It is rather expensive, and therefore not sought for. But yet it is executed, and well executed, and usually, by some of the principal gentlemen of the county. In France, the office of counsellor, or member of their judiciary parliaments, is more honorable. It is therefore purchased at a high price ; there are indeed fees on the law proceedings, which are divided among them, but these fees do not amount to more than three per cent, on the sum paid for the place. Therefore, as long as interest is there at five per cent, they in fact pay two per cent for being allowed to do the judiciary business of the nation, which is at the same time entirely exempt from the burden of paying them any salaries.

their services. I do not, however, mean to recommend this as an eligible mode for our judiciary department. I only bring the instance to show, that the pleasure of doing good and serving their country, and the respect such conduct entitles them to, are sufficient motives with some minds, to give up a great portion of their time to the public, without the mean inducement of pecuniary satisfaction."

This distinguished man went on to give further illustrations, but he (Mr. E.) would not, at present, read any more, as he might weary the patience of members. By looking into history, we could find that the general tendency of a republican government, was to go on increasing in extravagance and expenses; and we also found that when they became inordinate, the people felt despotism a less evil than a republican government. If gentlemen would avert these consequences, they must adopt an amendment of the character which he had introduced.

Mr. Cobbett once made this not less true than correct observation—that there are two classes of persons in the community directly opposed to each other in interest—the one is the tax-payer, and the other the tax-taker. These interests are perpetually at war with each other. It is the interest of one who levies taxes, to make them as high as possible, whilst it is the interest of him who pays taxes, to get them reduced as low as possible. Who, he (Mr. E.) asked, were they, that would be so ready to advocate high salaries? Were their interests the same as those of the majority of the people? Were their occupations the same as the average mass of the people? And were their incomes the same? Do they also expect to go on living on the results of their own industry? The legislature themselves, have an interest in increasing the public salaries. There was no doubt that the legislature was regarded, generally, by young aspiring politicians, as a stepping-stone to more profitable posts. And, their position was very frequently such as to give them a good chance of being favored by the executive patronage. They might get offices for themselves, if they chose to fill them, and if they did not, their friends could do so.

When we were on the first reading we were impatient to get through, and we put off every thing to the second reading. Now we were pressed for time, and the convention was impatient of any new propositions. He did not intend to offer any amendments which were unnecessary. The amendment which he now proposed to offer related to public salaries. He moved to add to the section the following, viz :

"No law shall be passed for increasing the salary or rate of fees of any public officer or person holding an appointment of public trust, except by the concurrent act of two successive legislatures, with the ayes and noes taken thereon in each house of each legislature, and entered on the journals."

His object was to guard the legislature against the besetting sin of increasing salaries, to which they were exposed from an amiable weakness of human nature. Both in congress and in the state legislature there were those who thought salaries too low, and both bodies were assailed with solicitations and arguments for their increase. The common course was as follows:—some public officer discovers that his salary is not as high as that of some other public officer's, and he applies to the legislature for an increase.

One salary is raised and then other officer applies to be put on the same footing. Thus the legislature goes on increasing the salaries to an anti-republican and extravagant extent. Moderate salaries form one of the most important principles of republican government, and with high salaries, republican government cannot long be preserved. The effect upon the public service of high salaries is always injurious. The offices excite the cupidity of many competitors, and it will generally be found that those competent to obtain an office, are not the most competent to fill one. In the smallest states where the salaries were small, there was just as much integrity and conformity in the public officers, as in the states where the salaries were larger. He believed that the amendment would meet with the approbation of nine-tenths of the people of the state, and there were few who would not cheerfully adopt it. He asked the yeas and nays on the question.

Mr. M'DOWELL moved to amend the amendment, by inserting after the word "increasing," the words "or diminishing;" and by inserting after the word "legislatures," where it first occurs, the words "and that all offices shall be tendered to those who will serve for the least compensation."

Mr. EARLE was under great obligations, he said, to his friend from Bucks, for coming in to aid him in maintaining his argument. There is a great difference between tax-payers and tax-takers. What is a good joke in one place is not always so in another. The gentleman's joke is upon the tax-payers. Let him go and crack his joke upon the tax-payers of Bucks county, and they will tell him that it is no joke.

Mr. M'DOWELL said, the gentleman misunderstands me. This is no joking matter, and I am not disposed to make a joke of it. I offered the amendment with a view to carry out the gentleman's principles, and it is a bad rule which would work both ways. If no salary should be increased, then some ought to be diminished, in order to bring all to a proper level; and to keep the public officers perfectly pure, their salaries ought neither to be increased or diminished. I will not vote for the gentleman's proposition, unless my amendment prevails.

Mr. DICKEY moved the previous question, which was seconded, and the main question was ordered to be put.

The main question upon agreeing to the report of the committee, in regard to the twenty-first section was taken, and decided in the affirmative, *nem. dis.*

Mr. INGERSOLL moved an adjournment, which was lost.

The twenty-second section being under consideration,

Mr. EARLE said he was sorry to intrude, but he hoped to be able to get a direct vote upon the proposition which he had presented. He moved to postpone the consideration of the twenty-second section, for the purpose of inserting the following new section:

"SECTION 22. No law shall be passed for increasing the salary of fees of any public officer or person holding an appointment of trust, except by the concurrent act of two successive legislatures,

the ayes and noes taken thereon in each house of each legislature, and entered on the journals."

Mr. DICKEY said, if the gentleman succeeded in getting a postponement, he should move the previous question.

The motion to postpone was lost.

The twenty-second section being still under consideration,

Mr. BELL moved to amend the said section, by adding to the end thereof, the following, viz :

" No bill providing for the creation or continuance of a corporation to carry on the business of banking, shall become a law, unless it be passed at two annual and immediately succeeding sessions of the general assembly, and any such law which may be hereafter enacted, may be repealed, altered or modified by the general assembly, whether the power to repeal, alter or modify be reserved in the law creating such corporation or not; but when such law shall be repealed, or any of the corporate privileges granted hereby, resumed, provision shall be made for adequate compensation to the corporators."

Mr. DICKEY said this question had been urged again and again, and, in order to save time, he would move the previous question.

Mr. BELL asked the gentleman to withdraw the motion.

Mr. DICKEY declined.

Mr. STERIGERE said this was a very interesting part of the constitution, and he hoped the previous question would not be sustained.

Mr. DICKEY. I move the previous question. The motion was seconded.

Mr. BELL objected to the previous question, as being out of order, he having the floor and not yielding it, when the gentleman from Beaver, (Mr. Dickey) interrupted him, and moved the previous question.

The CHAIR decided that the previous question was in order.

Mr. BELL appealed, on the ground that he was in possession of the floor when the previous question was moved.

The CHAIR stated the question on the appeal.

Mr. BELL said, that he found excessive modesty and diffidence not very well calculated to get along in legislative bodies, and more especially in a body of this kind, where there were gentlemen who had been so long in public life, and had become so skilled in parliamentary tactics, as make them entirely forget what was due to the younger, more inexperienced and less hardened members of the body.

This was not the first instance in which he became acquainted, during the sitting of this body, with a course of proceeding similar to that now adopted by the gentleman from Beaver; nor was it the first illustration which he had had of the fact, that if a member wished to be heard on this floor, that it was necessary that he should, in some degree, forget that

which he had always been taught to believe, as one of the most beautiful traits of a man's character—modesty. A diffident gentleman stood no more chance here, than he would among the rudest of the human creation. How did he stand here on this appeal?

After waiting here patiently for an opportunity to offer his amendment, when it would not be in opposition to those rules of order which we have adopted, to protect the weak against the strong, and which ought to be a protection for all—he proposed an amendment embodying principles acknowledged by all to be of the utmost importance. Well, while the clerk was reading his amendment, he took the floor, expecting, of course, that he would have an opportunity afforded him, of expressing his views upon it. The instant he did so, the gentleman from Beaver, taking advantage of that legislative tact which he had acquired by his long experience, sprang upon his feet, before the Chair had time to announce the amendment, after it was read by the clerk, and with a view of cutting off all debate, and preventing a vote from being taken directly on the amendment, moved the previous question; that motion which was becoming more and more odious here every day; and when he claimed the floor, and asked permission to give his views on the subject, he was told that he was out of order. He must neither have the privilege of discussing this question, nor of getting a vote upon it.

Mr. B. here gave way to

Mr. INGERSOLL, who moved that the convention adjourn.

Which motion was not agreed to.

Mr. BELL. The question now seems to be this: whether the gentleman from Beaver had a right to the floor, when he rose and called the previous question. He now asked whether it was in order for any delegate, when a question was pending before the Chair, while the clerk was reading an amendment submitted by a gentleman in his place, and before the Chair had announced the amendment, to rise for any purpose and remain standing, and the moment the clerk had pronounced the last word of the amendment, to move the previous question?

He asked the Chair now, whether the question had been announced by the Chair, when the delegate rose and made his motion.

The CHAIR replied, that the amendment had been announced in the usual way, namely, the "following amendment is moved and seconded."

Mr. BELL. Then I put my appeal upon the ground, that by courtesy, as well as the rules of the convention, I was entitled to the floor after my amendment was read; that the gentleman from Beaver forestalled me, and, therefore, the previous question ought to be arrested, and that I ought, by common courtesy, as well as by the rules of the house, to be permitted to address the committee on the subject of my amendment.

Mr. DICKEY believed, that on this floor rights were equal, and if the delegate from Chester had a right to offer an amendment, and he (Mr. D.) could get the eye of the Chair, and obtain the floor first, after the amendment was announced from the Chair, and read by the clerk, he had a right, if he felt it to be a duty which he owed to the people of the commonwealth at large, and to his immediate constituents in particular, to cut

off this repeated discussion and amendment of the same kind, by moving the previous question.

The amendment, in substance at least, now moved by the delegate from Chester, has been submitted on more than one, two, or three occasions, and as often rejected. If then, when such amendments were offered, he claimed the right which he might claim under the rules of the convention, of rising and cutting off useless discussion, and worse than useless amendments, which never could be productive of any good to the people of the commonwealth, and was sustained in the motion which he made by the necessary number of delegates, agreeably to the rules, he had a perfect right to do so, and it was no want of courtesy in any gentleman to exercise this right.

If a majority of this convention are in favor of hearing a discussion on this amendment, they will say so when the question is put upon ordering the main question, and they will refuse to order it; and in that case, he should be perfectly content with the decision, and sit and hear what is to be said upon it. But, on the other hand, if a majority of this body, like himself, were disposed to terminate this discussion, and cut off this amendment, they would sustain the previous question, and order the main question to be put. Then, if the majority of the convention do this, the delegate from Chester would have no right to complain of a want of courtesy on his part.

Mr. STERIGERE considered the motion made by the gentleman from Beaver, under all the circumstances of the case, an unprecedented outrage on all parliamentary proceedings and practice. He had never, in the whole course of his legislative experience, seen a similar outrage committed, and he would take this occasion to say, that gentlemanly courtesy was a part of the rules of this body, as well as of every other legislative body.

We, as well as the congress of the United States, have been likened to a bear garden, and if practices, such as we have seen here, on more than one occasion, prevail in this convention, we will much more merit the comparison, than the congress of the country. If every man is to scramble here for the floor, on particular occasions, like school boys after nuts, or like capitalists after some particular stocks, on the opening of the subscription books, and to exercise no courtesy towards each other, then older and more modest, and less active members of this body, will be entirely deprived of their rights, by the young, the active, and the more watchful members of the body.

He would ask the Chair and every other gentleman here, whether the universal practice had not been, when a member moved that the committee rise, that he should be entitled to the floor when the committee again met; and when the convention again went into committee, the chairman universally announced that gentleman as being entitled to the floor. Under the same practice and the same courtesy, the gentleman from Chester ought to have had the floor after his amendment was read. The gentleman from Beaver, however, rose before the last word of the amendment was read, and moved the previous question, thereby depriving the gentleman from Chester of the floor, which he was entitled to by all courtesy, and by all parliamentary practice. He himself, had no desire to debate

this question now, and he had risen for the purpose of asking the gentleman from Chester to withdraw his amendment, and submit it at the end of the article, where he might have a direct vote upon it, even if the previous question were moved.

On strict technical grounds the President may be right, but I trust the convention will sustain the appeal.

Mr. DENNY said the decision of the Chair was correct, but this was one of the occasions on which the previous question drew very tight.

Mr. BELL spoke in support of the appeal.

Mr. HOPKINSON said the question was not one of courtesy, but of fact. Was the gentleman from Beaver entitled to the floor when he moved the previous question? That was the question.

Mr. CHAMBERS briefly supported the decision of the President.

Mr. DICKEY again spoke in defence of the propriety of the course he had thought it his duty to pursue, and insisted that the call for the previous question, under all the circumstances of the case, was strictly in accordance with all parliamentary rules.

Mr. KONIGMACHER, of Lancaster, moved that the convention adjourn. Lost.

Mr. EARLE said two or three words expressive of his opinion, that the question of appeal had been discussed long enough, and ought to be at once decided.

Mr. FORWARD opposed the appeal.

Mr. FLEMING warmly argued that the decision of the President was entirely erroneous—that a breach of courtesy, at least had been committed in calling the previous question, and that the appeal ought to be sustained.

Mr. PAYNE said that the gentleman from Lycoming, had trusted the question was one of courtesy, between the gentleman from Beaver, and the gentleman from Chester. But we should remember what courtesy was due to the President. The question was whether the president had decided correctly or not, according to parliamentary usage.

Mr. BROWN of the county, said he did not often ask courtesy from any gentleman. Those who will grant it, will do it without asking. He trusted that the appeal would be sustained. There were some rights and interests, out of the walls of this hall, and he trusted that we should not forget what was due to the people of Pennsylvania. He put it to every member of the convention, whether something must not be done by us on the subject of corporations? Shall we suffer the decision to go abroad, that nothing is to be done on that subject? Are we to be told that the corporation question is settled? We debated the subject of currency and politics, but have made no decision upon the question of corporations. Are we to be told that the corporation question is settled? that we have driven it from our forum, and that we will do nothing with it? He hoped not.

Mr. WOODWARD hoped, he said, that the appeal would be sustained.

Mr. SCOTT expressed the opinion, that the previous question was in order, as the Chair just decided.

Mr. BANKS rose to ascertain one fact. If he understood the rules of order, it was the duty of the President to announce to the convention, every amendment after it was submitted, and read, and being now before the body for its action. He had no recollection that this had been done after the reading of this amendment, and he believed the gentleman from Beaver rose and interrupted the Chair, and prevented the Chair from making this announcement. That being the case, he should vote to sustain the appeal.

Mr. SHELLITO would vote to sustain the appeal, because the universal custom had been to give a gentleman who offered an amendment, the floor, after it was read, to lay before the convention the reasons which induced him to offer it.

Mr. STERIGERE rose to say, when he characterized this proceeding as an outrage upon all parliamentary practices that he had no allusion to the President of the body, in that remark. What he meant was that the gentleman from Beaver had committed an outrage on parliamentary practice.

Mr. DICKEY called the gentleman to order.

Mr. DONNELL inquired of the Chair whether he had announced the amendment after it was read by the secretary, and before the gentleman from Beaver rose.

The CHAIR said that he did not recollect whether he had or not. The usual practice had been to announce amendments in this way: "the following amendment is moved and seconded," and in this way the amendment before the convention was announced.

Mr. WOODWARD recollected distinctly that the Chair had announced this amendment as just stated by the Chair.

The question was then taken, "Will the convention sustain the appeal?"

The yeas and nays were required by Mr. DICKEY, and Mr. COX, and were as follow:

YEAS—Messrs. Banks, Bell, Bigelow, Brown, of Northampton, Brown, of Philadelphia, Clarke, of Indiana, Cummin, Donagan, Donnell, Fleming, Foulkrod, Mann, Miller, Read, Scheetz, Sellers, Shellito, Sterigere—18.

NAYS—Messrs. Agnew, Baldwin, Barclay, Barndollar, Barnitz, Bedford, Biddle, Brown, of Lancaster, Carey, Chambers, Chandler, of Chester, Chauncey, Clarke, of Beaver, Clark, of Dauphin, Coates, Cochran, Cope, Cox, Craig, Crain, Crawford, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Dillinger, Earle, Farrelly, Forward, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Harris, Hastings, Hayhurst, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Hiestler, High, Hopkinson, Houpt, Hyde, Ingersoll, Jenks, Kennedy, Kerr, Konigsmacher, Krebs, Long, Lyons, Maclay, Magee, Martin, M'Cahen, M'Call, M'Sherry, Meredith, Merrill, Meikel, Montgomery, Payne, Pennypacker, Pollock, Porter, of Lancaster, Purviance, Reigart, Ritter, Royer, Russell, Saeger, Scott, Seltzer, Serrill, Sill, Smith, of Columbia, Smyth, of Centre, Snively, Stickel, Taggart, Thomas, Todd, Weidman, Woodward, Young, Sergeant, *President*—91.

So the question was determined in the negative.

Mr. M'CAHEN moved an adjournment. Lost.

Mr. BELL withdrew his amendment for the present, giving notice that he would renew it in such a manner that it could not be cut off by the previous question.

The Convention then adjourned.

WEDNESDAY, JANUARY 10, 1838.

Mr. FOULKROD, of Philadelphia county, presented two memorials from citizens of Philadelphia county, praying that measures may be taken effectually to prevent all amalgamation between the white and coloured population, in regard to the government of this state.

Which was laid on the table.

Mr. GAMBLE, of Lycoming, presented a memorial of like import, from citizens of Lycoming county.

Which was also laid on the table.

Mr. CAREY, of Bucks, presented two memorials from citizens of Bucks county, praying that no alteration may be made in the present constitution in regard to the rights of citizenship and suffrage.

Which was also laid on the table.

Mr. COATES, of Lancaster, presented a memorial of like import, from citizens of Susquehanna county.

Which was also laid on the table.

Mr. SERRILL, of Delaware, presented a memorial of like import, from citizens of Delaware county.

Which was also laid on the table.

Mr. THOMAS, of Chester, presented a memorial of like import, from citizens of Chester county.

Which was also laid on the table.

Mr. FOULKROD, of Philadelphia county, presented a memorial from citizens of Bucks county, praying that a clause may be inserted in the constitution, expressly providing that no one of the negro race be permitted to vote for any public office whatsoever.

Which was also laid on the table.

Mr. INGERSOLL, of Philadelphia county, presented three memorials from citizens of Mercer county, praying that a provision may be introduced into the constitution that in those counties in the commonwealth where the German language prevails, no one shall be eligible to any county office

unless he understands and can speak the German language, and that provision may also be made for the support of German literary institutions and German common schools: accompanied with a document.

And the said memorials were laid on the table.

A motion was made by Mr. BANKS, of Mifflin, and read as follows, viz :

Resolved, That a committee be appointed to inquire and report to the convention *when* it will be most expedient for the citizens of the state to vote upon the amendments to the constitution which may be submitted to them for their approbation ; and also *what officers* shall conduct the election at which the said citizens shall so vote.

And, on motion,

The said resolution was read a second time.

And being under consideration,

Mr. BANKS said, that every gentleman must have reflected, to some extent, on the propriety of fixing a time when the amendments should be submitted to the people. It would be necessary, before the labors of the convention were closed, to fix on the time, and he knew of no better mode than the reference of the subject to a committee.

Mr. DARLINGTON, of Chester, stated that only a few days had elapsed since a committee was appointed to prepare the schedule. He had no idea that another committee should now be appointed to perform part of the labors of the one already raised.

Mr. DENNY, of Allegheny, did not know any other duty which the convention had to perform, except to fix a day when the amendments should be submitted. The law makes provision as to officers, and other matters of detail. He thought that the best disposition which could be made of the resolution, was to let it lie on the table.

Mr. DICKEY, of Beaver, agreed with the gentleman from Chester, that all these duties properly belonged to one committee. He would therefore move to refer this resolution to the committee appointed to prepare and report a schedule of the amended constitution.

Mr. BANKS replied, that, in looking over the duties assigned to the committee on the schedule, he had seen none such as are named in this resolution. It was a matter of very little importance who made the report. The fixing a day to submit the amendments had nothing to do with the schedule. It was a very different subject, and, as he thought, should be left to a separate committee.

Mr. DICKEY said, the framers of the constitution of 1790 did not submit their amendments to the people. The new constitution went into operation by proclamation or process. The law provides that this constitution shall be submitted to the people. It was a duty which would devolve on this committee to say whether the new constitution shall be presented to the people as a whole, or in distinct parts. He did not care about the committee to which the duty was assigned.

The question was then taken on the motion of Mr. DICKEY, and decided in the affirmative—ayes 52, noes 25.

A motion was made by Mr. CHAMBERS and Mr. CHANDLER, of Chester,

That the convention reconsider the vote of the convention, on the amend-

ment offered to the report of the committee of the whole on Monday last, in the words as follow, viz :

“SECTION 14. The legislature shall not have power to enact laws annulling the contract of marriage, in any case where by law the courts of this commonwealth are, or may be, empowered to decree a divorce.”

Mr. CHAMBERS remarked that the motion would of course lie over for consideration.

Mr. BELL, of Chester, thought the motion out of order, as the rule only applied to resolutions.

The PRESIDENT stated that the motion would be in order when the subject of the report of the committee on the article came up in convention : but he had received the motion now because the rule was general. He did not think the motion was out of order, but it would be better to bring it forward when the subject shall be before the convention.

Mr. CUNNINGHAM, of Mercer, suggested that, according to the rule, any motion for re-consideration might be made within six days. The motion therefore was in order.

The motion was then laid on the table.

Mr. EARLE, of Philadelphia county, moved that the convention proceed to the second reading and consideration of the resolution read on the 9th instant, in the words as follow, viz :

Resolved, That the committee appointed on the second instant, be instructed to inquire and report, whether any, and if any, which of the amendments now adopted, or which may be hereafter adopted by this convention, are, or may be in any wise ambiguous in their language, or calculated to convey a meaning different from that which the said committee, or any portion of it, may suppose to have been intended by the convention ; and, also, that the said committee be instructed to report what changes or additions of phraseology, if any, they believe to be expedient for the purpose of clearly expressing the intent of the convention in the premises.

Which was agreed to.

A motion was made by Mr. BEDFORD,

That the convention proceed to the second reading and consideration of the resolution read on the 30th of December last, in the words as follow, viz :

Resolved, That the following new rule be adopted, in convention, viz :

“ That when any twenty delegates rise in their places, and move the question on any pending amendment, it shall be the duty of the presiding officer to take the vote of the body on sustaining such call, and if such call shall be sustained by a majority, the question shall be taken on such amendment, without further debate.”

And on the question,

Will the convention agree to the motion ?

The yeas and nays were required by Mr. DICKEY and Mr. DONNELL, and are as follow, viz :

YEAS—Messrs. Banks, Barclay, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Clarke, of Indiana, Cleavinger, Crain, Crawford, Cummin, Curll, Darrah, Dillinger, Donagan, Donnell, Doran, Earle, Fleming, Foulk-

red, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hastings, Hayhurst, Helfenstein, Hiester, High, Hought, Hyde, Ingersoll, Keim, Kennedy, Krebs, Magee, Menn, Martin, M'Cahen, Miller, Overfield, Payne, Purviance, Read, Riter, Ritter, Scheetz, Sellers, Seltzer, Shellito, Smith, of Columbia, Smyth, of Centre, Sterigere, Stickel, Sturdevant, Taggart, Weaver, White, Woodward—63.

MAYE—Messrs. Agnew, Baldwin, Barndollar, Barnitz, Biddle, Brown, of Lancaster, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clarke, of Beaver, Clark, of Dauphin, Coates, Cochran, Cope, Cox, Craig, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Dunlop, Forward, Harris, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Jenks, Kerr, Konigsmacher, Long, Macley, M'Call, M'Dowell, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Reigart Royer, Russell, Saeger, Scott, Serrill, Sill, Snively, Thomas, Todd, Weidman, Young, Sergeant, *President*—58.

So the question was determined in the affirmative.

Mr. CUNNINGHAM said, he would take the liberty to suggest a few observations in opposition to the resolution. It had on its face a very material objection, and the consequences of its adoption would, he thought, be seriously regretted by all. The question would continually arise whether the question was on the amendment or on the main question. According to parliamentary rule, the main question would be put, and it would cut off all amendments. If the construction be that the question will be on the amendment, then the parliamentary rule which has stood for ages will be destroyed, and we shall debate and debate upon questions of order, to the great waste of our remaining time. We are elected to propose amendments to the constitution—which if adopted, will remain the organic law of the state till we are off the stage of action. We are forming a constitution of government to remain for all time to come. Now, suppose an amendment be offered, which no one has seen or read, and that twenty persons rise and demand a vote upon it. The consequence will be, that we shall be obliged, without consideration, to vote upon the subject, whereas, if we had time to consider it, we might better judge upon the propriety of accepting or rejecting it.

Here the hour for the consideration of resolutions expired, and the convention passed to the consideration of the report of the committee on the first article of the constitution, as reported by the committee of the whole.

The question recurring,

Shall the main question be now put?

It was determined in the affirmative, and the report of the committee, in relation to the twenty-second section, was agreed to.

The twenty-third section being under consideration,

Mr. M'DOWELL, proposed to amend the same by adding to it the following:

“And the title of every bill shall distinctly announce its enactment, and no two distinct or dissimilar subjects of legislation, shall be included in the same bill.”

Mr. M'DOWELL did not intend, he said, to consume the time of the house in the discussion of this subject. He was convinced that some clause of the kind would be absolutely necessary, and the amendment

would come in here as well as any where. He did not believe that it was the intention of those who formed the present constitution, that more than one subject should be embraced in any one bill. The amendment would be wholesome and salutary. He could see no injury that would result from it, and he hoped it would be adopted.

Mr. DICKEY asked the yeas and nays on the question.

Mr. EARLE said, he hoped no opposition would be made to an amendment of this kind, but he feared there would be a powerful one. The private opinions of gentlemen with whom he had conversed, were in favor of some amendment of the kind. It was well known to the convention that a vast amount of our legislation was done in a hurried and confused way, in consequence of the practice of uniting dissimilar objects in the same law, and the effect of the amendment would be to enable the legislature to see what they were voting upon. A member from _____ county, he was told, voted once for a canal which he had strongly opposed, and did not know it. Many members had fallen into similar mistakes from the practice of combining different subjects in the same bill, the title to which, did not express its enactments. One objection to the amendment had been urged with great force by some gentlemen, and he would not now trouble the convention, but for the purpose of answering it.

It was objected, that if the legislature should put two different subjects in the same law, it would become a troublesome question for the courts, whether the law was constitutional or not, and that the law might be set aside as a nullity. But, said Mr. E. my impression is, that the legislature alone are to be the judges of the fact, whether the law embraces dissimilar subjects or not. The amendment proposed is to be their guide, and will serve as a perpetual admonition to them. It will be easy to form the amendment so as to obviate the danger referred to, and my object is to test the sense of the convention, as to the adoption of any amendment of the kind. One of the great evils in legislation, is the forming of laws in such a manner as to raise a perpetual doubt as to their meaning, and this great evil is to be avoided only by providing that the object and subject of this law, shall be single and distinct. If its object be then expressed in clear language, there can be no doubt about its meaning and intent. The meaning of every law would be then placed beyond the possibility of doubt. In order to prevent the possibility of a construction of the amendment, which would enable the courts of justice to prevent legislation, I propose to amend the amendment by adding to the section the following proviso :

“ Provided, That each house of the legislature, together with the governor, within their respective spheres of constitutional action, in the enactment of laws, shall be the sole judges of the applicability of this restriction.”

Mr. CHAUNCEY said the amendment offered by the delegate from the county, would introduce something of a new principle into the constitution. He did not know whether he intended to introduce a new principle or not, but it certainly gave to the legislature itself, either at the session at which the law was passed or at another session, the power of passing on the constitutionality of the law in question. The amendment

contemplates either one thing or another—to enable either the legislature which passes the law, or a subsequent legislature, to pronounce upon the constitutionality of the law—which one I cannot say. It takes from the judges the power to pass on the constitutionality of laws. The constitutionality of law is a fit subject only for the judges to pass upon, and I am unwilling to take it from their hands. I am unwilling to insert this provision, because the whole subject of the constitutionality of the laws is for the consideration of the judges.

This great power, as I think, rests with the courts, and the argument that, by taking from the courts this power, we obviate the objection urged against the amendment, on the ground of its producing litigation, is not entitled to our approbation.

The gentleman says, it is admitted that there is a necessity for providing for more distinct legislation, but, I have as yet heard no convincing argument in favor of any restriction on the legislative power. It would certainly be a matter of convenience to find each subject of a law distinctly stated; but it would also be convenient to the legislature to introduce into one law several particular subjects.

He had listened with attention to hear from gentlemen some illustration—some exemplification of the mischiefs which had resulted from this mode of proceeding on the part of the legislature. A gentleman from the county of Philadelphia, had presented to the notice of the convention, an act of assembly containing enactments on some eight or nine distinct subjects; but he left them for the consideration of the convention, as to whether they were proper or improper. The gentleman did not undertake to say that there was any inconsistency in the law; and he did not undertake to say that there had been any thing like log-rolling in the passage of that law. No man could say that there was any improper enactments in that law. Then the only objection to it was, that several proper enactments were embraced in the same law, and he would ask any gentleman, if this could be looked upon as an objection to a law. He presumed if the gentleman had turned to the index, he would have found all the provisions of that law indexed, then where was the difficulty in relation to it? But the gentleman from the county had said, that but two gentlemen on this floor were the advocates of log-rolling in your legislative bodies.

Now he (Mr. C.) would not say that he was in favor of log-rolling, but he would say, that the legislature ought to have the power, if they saw fit to exercise it, of embodying more than one subject in a law. He believed this to be a proper power to be exercised by them, and he was willing to trust the legislature thus far, not believing that all men may be effected by interest, and swerved from their public duty. He would leave this power in their hands, because it never, to his knowledge, had been abused, and because it had always been exercised by the legislature. He could leave them to exercise this power with the utmost confidence, knowing that they were following precedent of undoubted authority. How was it with regard to the legislation of that country from which we obtain all our precedents. He believed you would find many of those great statutes embracing many important subjects in the same enactment; and no lawyer, no layman, and no legislators ever questioned the propriety of those enactments.

But it appears that we want to find out some new mode of legislation ; and we want to do that, by a constitutional provision, which was never done in the world before, to provide that the legislature should pass, in a distinct form, every subject of legislation which may come before it. Now he was not prepared to go this length. He believed these restrictions on the legislature entirely unnecessary, inasmuch as he did not believe in the corruption of that body, and in the existence of the evils which many gentlemen here, seem to think existed. He, therefore, must be excused when he said, that he could not see the necessity of adopting a restriction of this kind.

With respect to the first part of the proposition submitted by the gentleman from Bucks, (Mr. M'Dowell) providing that the details of each bill should be set forth in its title, he confessed that he was not satisfied with its phraseology ; because, if the legislature set forth all the provisions of a bill in its title, he could see no necessity for the bill itself. This thought must be a great objection to the gentleman's amendment, and if it should so happen that it met with the favor of the convention, he hoped the gentleman would so modify it as to remove this objection. So far as he was concerned, as he could not see the necessity for this amendment, he must vote against it.

Mr. BIDDLE said if there were no other objections to these two amendments, it appeared to him that this convention ought to hesitate in adopting them, when a gentleman of the legal knowledge and experience of his colleague who had just taken his seat, professes himself unable to understand their effect. Let it be borne in mind, that we are now engaged on the second reading of the proposed amendments to the constitution of our state ; and that what we now adopt will not hereafter be voted upon except as a whole, and will either have to be adopted or rejected as a whole in our amended constitution.

He thought the experience which we have had since we have been in this city, admonished us that we ought to be careful not only in the principles which we introduce into the constitution ; but in the phraseology in which we adopt our amendments. Why, sir, even the learned and ingenious member from the county of Philadelphia, (Mr. Earle) has told us this morning that he has introduced amendments which were adopted in our constitution, that would bear a construction directly the reverse of the idea which they were intended to convey. Then we are to have amendments placed in the constitution even by learned legal men, which will bear a construction different from that which the mover intended, and which he believed the gentleman himself had admitted, that he could not understand a few days after it was submitted. Does not this admonish to touch this instrument lightly, and deal with it with great care. Then in relation to the amendment pending, the objection of his colleague with regard to the uncertainty of its meaning, ought to induce this body to hesitate in its adoption.

But again : was it not extraordinary that now when we have reached the second reading, and when we have not that time to consider amendments which we have had in earlier parts of our session, that a new principle should be introduced to be passed without being printed, without being deliberately considered, and without being slept upon,

proposing to take from our courts, and vest in the legislature, powers which they have exercised ever since the foundation of our government. He would ask this body whether it was proper that we should jump at conclusions, upon important and vital principles in this way.

What are the provisions of this amendment? The amendment of the gentleman from Bucks is, that "the title of every bill passed into a law shall distinctly announce its enactments, and no distinct or dissimilar objects of legislation shall be embraced in the same law."

Then the gentleman from the county of Philadelphia follows this up by an amendment to this effect, that each house of the legislature together with the governor, within their respective spheres of constitutional action, shall judge of the application of these constitutional restrictions.

Well, sir, how were they to judge of this? Was this amendment introduced for the purpose of conferring a power on the legislature, or was it merely proposed for the purpose of giving them advice? Was it for the purpose of saying that no other tribunal should have the power of judging upon this matter, and was it for the purpose of making your constitution a mere advisory instrument, and leaving it with the legislature to obey or disobey that advice at pleasure? Why, sir, the gentleman says that the whole community sanction this provision. Well, if this is the case, and it is meant to be inserted in the constitution merely as an advice to the legislature, he would ask where was the use of it? If the legislature would not take the advice of the whole community, is it to be supposed that they would take this advice given to them through the constitution? It was in this sense entirely superfluous.

But he^d thought he understood this amendment as being intended to make the legislature, together with the governor, the exclusive judges of the constitutionality of the law as passed by them; and that no other tribunal could question any act passed by them. Now, he would ask gentlemen whether it was proper that such a provision as this should be inserted in our constitution? If it was a mere matter of advice which the legislature might obey or disobey at pleasure, he would ask if it is worth our while to insert it, and if we did, it would merely bring our constitution into contempt and ridicule; and if it was intended to deprive the courts of any of their powers he would ask whether it was proper. He thought it highly important that our constitution should be obligatory in all cases, and that it should be respected, both by the legislature and the people.

But we have been told that this matter which it was desired to remedy by the amendment of the gentleman from Bucks, was an evil of modern time, and therefore, it was necessary to have a constitutional restriction to prevent it. He took it, however, that his colleague had abundantly satisfied gentlemen on this point by referring to those English statutes from which we obtain our precedents in legislation. Distinct and dissimilar subjects had always been introduced into laws in all countries, and this must continue to be the case. What was our civil code? Was it not made up of distinct and dissimilar subjects, and were we to deprive the legislature hereafter from revising the civil code, unless by separating each distinct and dissimilar subject.

He confessed that he was not the advocate for frequent revisions of

the civil code, but still he should be sorry to see this power taken out of the hands of the legislature, when it is such a convenience to every one to have it made up in this way.

Well again, what was the code of Napoleon but one great and comprehensive act, embracing a great variety of subjects in themselves distinct. Then are we to be told that this matter of embracing distinct subjects in one law, was a matter of quite recent origin, which ought to be provided against in the constitution. What was the code of Edward Livingston which had been alluded to so favorably in this body? Was it not of a similar character?

The state of New York and the state of Ohio, have both revised their system of laws by a general law, and what was this but embracing distinct and dissimilar subjects in one law, yet who would say that there was any thing wrong in this? Then were we about to adopt in our constitution, a provision, that we shall never make a general revision of our laws, and embrace the whole in one law? He trusted not, and hoped we might not attempt to exercise such a control as this over our own legislature, in all future time. In relation to the titles of bills, he thought all that was necessary, was to express in a few words the general object of the act, and then let an index be made out which will show the different enactments. If this was done, there would be no difficulty in relation to them, and every gentleman who wants to find any provision in the volume of laws, will be enabled to do so without difficulty. At any rate, he thought it to be too small a matter to require the enactment of a constitutional provision to remedy it, as it is within the power of the legislature, at any time to apply a remedy for it, when it may be found necessary.

He wished here to call the attention of the convention, to that part of the amendment, which proposed to take from the courts the power of deciding in relation to the enactments of certain laws, and impress upon them the danger of introducing into your fundamental law, a new principle of this kind, and to the new system of legislation which it would introduce, by making a separate law for every distinct subject. Would you then be enabled to obtain legislation as you now do, to meet the wants of the community? Not at all. The time of the legislature would be engrossed with public matters, and the private business brought before the body must necessarily be neglected for want of time to act upon it. You would then have hasty and injudicious legislation, and laws would be passed which would reverse the whole order of things now existing, and no man would be safe in his property. Every thing would be in a state of confusion, and those who ought to be protected by your laws, would be ruined by them.

This amendment is either controlling, or it is not. If it was controlling, it was improper that it should be introduced into the constitution, and if it was not, it was useless.

The amendment of the gentleman from Bucks, would introduce a new principle into the constitution, which would lead to the greatest difficulty. It would introduce into your legislature, doubt, uncertainty and confusion, and unsettle and disturb every principle which had formerly prevailed, to the manifest injury of individuals, and inconvenience to the public at large. We all know the evils which result from hasty and unwise legis-

lation ; but if we declare by a constitutional provision, that no two subjects shall be introduced into one law, we will have such legislation as we have never had before in this commonwealth. We will have such scenes of hurry and confusion in our legislative bodies as have never before taken place in Pennsylvania. He apprehended that this amendment was fraught with the most dangerous consequences, and he hoped that it might not be adopted by this body.

Mr. MEREDITH remarked, that as this amendment, in substance, had been before this body on several occasions, he would now take occasion to submit a very few remarks in relation to it, which should be confined principally to what he had seen in his short legislative experience. He had had the honor of holding a seat on the floor of the legislature for several years, and this matter of connecting different subjects together, appeared to him in some cases to be an evil, and one which he would like to see remedied if it could be done, without committing a much greater evil ; but there was the difficulty.

How can this evil be reached without creating a greater evil ? We, when we attempt to remedy an evil of this kind, should go to the root of it, and see when we can remove this slight evil without affecting principles of the utmost importance in our government.

The evil, first, consists in hasty legislation ; secondly, in inattentive legislation ; and thirdly, in the want of scientific arrangement in the acts passed.

Well, the evil of hasty and inattentive legislation, can only be remedied by a united action on the part of the people, in the election of their representatives ; because it was impossible, by any clause in the constitution, to make the representatives of the people more attentive to their duties, than they must supposed to be, after taking an oath to perform their duties faithfully.

Then, as to the evil arising from the want of scientific arrangement of your laws. This was admitted to be an evil, but how was it to be remedied. It might be remedied to a certain extent, but not by a constitutional provision of this kind, which he believed to be in substance, the same with some half a dozen of amendments which had been brought to the notice of this convention.

How does it happen that this evil in relation to scientific arrangement exists ? Why, it arises from our system of government. It arises from the fact, that the legislature of our state is not composed of a scientific body of men. That the body of your legislature is not made up of a set of men trained in the law ; that they are not a set of men trained in the scientific and dialectic construction of laws ; and the fact is in short, that the evil arises in that which is the foundation of a republican government.

This evil, then, must always occur, while your legislature is composed of a body of men who were not skillful in drawing up laws, and well versed in legal, scientific and dialectic construction. It must always occur until you have such a set of men to draw up your laws, as the men appointed by Napoleon, to draw up the code of Napoleon, which has been here referred to.

But, sir, we have never seen the day in this country, when we had such a set of men in our legislative bodies, and he trusted we never would see that day.

Then, he defied any man to place in the constitution, a remedy for this evil ; because the constitution could never make a man skilled in that which he was not skilled in before ; and it was impossible, by constitutional provisions, to make men draw up your laws in the most scientific form. It is not in the nature of our system, that this should be the case ; and although there might, on some occasions, be confusion in our laws, still it was better we should have this, than that we should have our whole system uprooted to cure the evil.

A proper index would enable every one to find any provision in a volume of our laws, which might be required to be referred to, and if that was wanting, the provision could be found, by reading through the volume.

The evil of scientific arrangement lies at the root of republican government. You never can have a body fairly representing the people in your popular branch of the government, who are skilled and educated in the framing of laws. Then, where was the necessity of having a clause of this kind in your constitution, when it would be of no kind of avail ? The fact is, that this evil must exist, or you must throw the whole matter of framing laws in your legislature, into the hands of some four or five persons, who are most skilled in drawing up laws, which never would or never could be submitted to.

The design of our system is, that the representatives of the people themselves, shall judge of the laws which they want, and it is a good system, although it has this concomitant evil connected with it, which cannot be removed without destroying the system itself. If you were to attempt to require that your bills should be drawn up in the most scientific style, and so clear and perspicuous as to be free from all doubt and uncertainty, you must throw the whole matter into the hands of some three or four of the most scientific men in the body, and they might be opposed to the proposition, however it might be demanded by the people, and by this means it might be defeated. Besides, this was contrary to the very principles of our republican system, as every man stands in your legislative hall, on an equal footing.

How stand the facts of the case now ? A member of the legislature, under our present system, brings in his own bill, or offers his own amendment, and if it meets the sense of the house, it is adopted. Then, if it is not in a place where it will be easily found afterwards, it is left to the index makers to your laws, as it is the duty of the secretary of the commonwealth to make a comprehensive index, to point out where it is to be found.

If, however, you adopt this amendment, and it is made the duty of your legislature and governor to judge of the propriety or impropriety of the provisions of laws, you may have your governor returning bills which had passed both branches of your legislature, because they are not drawn up upon scientific principles. He spoke not of the want of this scientific knowledge in matters of legislation, in our representatives, in a disparaging

manner, as regarded the legislation of our country, because he believed that it existed to a greater extent in England.

In the house of commons, in England, where the body of its members come from country districts, and are unacquainted with the scientific arrangement of laws—this evil also exists, and he believed to a greater extent, than in our own country. This evil existed there, and had been a subject of complaint, but they never there even thought of applying the remedy which has been suggested here. They never thought there of making a provision to tie up the hands of the representatives of the people, and put the power of the body in the hands of a few members, expert in drawing up and preparing bills in the most perfect order. He regretted that such an evil existed in this country, but he was happy to say, that it did not exist here even to so great an extent as it did in other countries.

He recollected having read some years ago, an account of an act of a private nature, having passed both houses of parliament, and among its numerous provisions, there happened to slip in one which afterwards made it extremely doubtful, whether the whole of the duties on wool had not been repealed by it.

Now, this evil had never reached a similar extent to this in our country. In our legislature, it had always been an extremely convenient thing to unite several propositions together, when none of them were of a doubtful character.

Then, in regard to the title of such bills, where there were a great many matters embraced in them, the most prominent matters were named in the title, and the words, "and for other purposes," added to the end of it. It was then the duty of the person who made the index, to point out the different provisions of the laws, in such manner, that they could be easily found.

He had before admitted, that there was an evil attending the practice of uniting too many subjects into one law, and he would be willing that we should get rid of this evil, if it can be done without creating a greater evil. It was an evil in our system, and he feared, to eradicate it, would uproot and destroy the system itself.

Every man, when he takes his seat in your legislature, as the representative of the people, from any particular county, takes that seat on a perfect equality with every other person there. And, although there may be a difference in profession and education, and a difference in the skill and ability of portions of those members, yet, in point of law, every man stands there on an equal footing, and every man has a right to present his propositions in his own language, and no one had a right to say that he should not do this. Well, in consequence of this, it may happen occasionally, and it is but occasionally that it does happen, that obscurity and want of scientific arrangement are found to exist in your laws, which make them not easily understood; but he would rather that this evil should exist, than that the majority of the popular branch of your legislature should be put in the power of some three, four, or half dozen of members.

As to this matter of combination and log-rolling, why no gentleman could expect to prevent that by a constitutional provision. Every gen-

tleman who has any knowledge of the nature of man, must know, that on local subjects there will be combination and log-rolling, as it is called. In fact, this log-rolling was got up in many cases, as a matter of necessity, for the purpose of getting particular business before the legislature, particularly if that business was private business. It arises from the circumstances in which members of the legislature were placed. The body has a large amount of public business to attend to, which generally claims the attention of the legislature first. Then, there was a vast number of private matters coming from all quarters of the commonwealth, to be acted upon.

There were numerous petitions presented and bills reported, perhaps amounting to some six or seven hundred in a session, and it was impossible, at many sessions, for the body to get all these bills up, as it was called.

The system of log-rolling, as it was called, consisted generally of an agreement among a certain number of members to help each other to get their bills up. The log-rolling did not consist in uniting and combining together a great many bills, but it consisted in a united effort of a certain number of individuals, to get each others bills before the body for its action.

For instance, a half a dozen of members of the house have a half a dozen of bills, which they feel a great interest in having passed. Well, they agree among themselves that they will help each other to get their bills up and get them passed. One member never asks another to permit him to unite his bill with the other's bill, because it would have a tendency more to prevent the passage of the bill, than to carry it. That is not the system of log-rolling which is practiced, but the system is that which he had before referred to.

Well, how are you going to prevent this by a constitutional provision? It cannot be done, and it is useless to attempt it. He appealed to the experience of many old members of the legislature here, to bear him out in the statement he had made, in relation to the system of log-rolling, practiced in your legislature, and to say whether, in almost every instance, the system did not apply to separate and independent bills, and not to bills embracing a great variety of provisions.

The fact was, that this was always the case where one of the bills was of a questionable character. Where a member has a bill of this character, he will go to another member who has a bill he wishes to get up, and tell him, "Sir, I will help you to get up your bill, if you will help me to get up mine." An agreement is made in this way, and they help each other.

But, it is never asked to append the one bill to the other, because that would be unjust, and would not be agreed to. If a gentleman, with a bill of a questionable character, was to come to another gentleman with a bill which he believed would pass, and should ask him to permit him to attach his bill to the other, it would immediately be refused, and the gentleman would tell him that he believed his bill would pass, and that he would not permit the other to be attached to it. The combination was on different bills, and this your amendment could not provide for. Then you leave

this matter of log-rolling precisely where it is, ~~because~~ your amendment, in no way, effects it.

With respect to this matter of inserting provisions in laws, in improper places, he had seen something of it at Harrisburg, and knew something of the manner in which it occurred. It occurred, perhaps, at times, from want of attention, and sometimes from other causes, but he thought before we sat in judgment on the acts of the legislative bodies of the state, we should look at our own action, and see if it has been the most correct and praiseworthy; and, he would ask gentlemen, if we had not inserted amendments in improper places; and, he might be allowed to ask the gentleman from Bucks, whether he desired that the legislature should follow the example he was now setting; because, unquestionably, the gentleman was inserting a very important amendment, at a very improper place. Well, the gentleman might answer him and say, that he could not get the opportunity of putting it in the proper place. This, perhaps, might be the case, and might not this also be the case in the legislature.

The section under consideration is the last section to the first article, which provides that :

“ Every order, resolution, or vote, to which the concurrence of both houses may be necessary, (except on a question of adjournment) shall be presented to the governor, and before it takes effect, be approved by him, or being disapproved, shall be repassed by two-thirds of both houses, according to the rules and limitations prescribed in the case of bills.”

Then, the gentleman from Bucks immediately follows this up, with a provision, that :

“ Every bill passed into a law, shall distinctly announce its enactments in its title, and no two distinct or dissimilar objects, shall be embraced in the same bill.”

Here, then, we have the provisions in relation to the veto power, mixed up with a set of restrictions upon the legislature, and this strange incongruity was introduced in a body, which was about censuring the legislature for not being more perspicuous in their enactments. In fact, he had never seen at Harrisburg, or any where else, a matter introduced more out of place, than this amendment seemed to be. Yet this arose from the situation in which we were, and in this situation was the legislature frequently placed.

He defied the gentleman from Bucks, or any other gentleman, to point him out an act of the assembly of Pennsylvania, containing enactments more distinct and dissimilar, than this section would contain, if this amendment was adopted.

This is a question of great importance to be settled and adjusted, and the gentleman puts it before this body, though it is not in its proper place, and wishes to test the sense of the body upon the subject. Why, sir, should there not be distinct subjects in a bill? All these subjects can be referred to in an index. When many subjects are before the house, and particularly when they are pressed for time on the last day of the session, it is impossible to pass each subject in a separate bill. We should recollect, too, that there are some subjects of distinct enactment, that ought to be put in the same bill.

Occasionally, there may be improper things done in the midst of party heat and excitement, by putting different subjects in one bill, but in general, there can be no inconvenience or impropriety in it, and it is necessary that the legislature should have the power to do it, in order to discharge their duties to their constituents. Take the distributing law as an instance—a law of over eighty sections, changing the districts according to the wishes of the people. Is it better or not that it be one law, and confined to one act, or that it be brought up in separate acts? The legislature, on the latter plan, would never finish. This is a subject that must be provided for by the rules of the two houses.

The house once had a rule that no local improvement bill should be passed, without three months' notice given through the newspapers—and this was a rule which he hoped would be again resorted to, as it cut off much of the difficulty in relation to bills of this sort.

The evils which resulted from leaving to the legislature, the power of making their own rules on this subject, are necessary evils, and we should incur great danger in adopting an amendment that will require them to put every distinct subject, in a distinct act.

Mr. DUNLOP said, no man who has ever served in the legislature can be insensible to the evils which continually arise from putting different subjects in the same law, and he should be very sorry, if we were not dialecticians enough to frame a provision that would remedy the evil, without giving rise to any greater evil. Must we abandon the object, because there are not talents enough in this body to frame an amendment that will meet the evil? If we had spent half as much time in drawing a suitable proposition, as we have in endeavoring to put it down, we should have effected it.

I call (said Mr. D.) upon those gentlemen who will neither think themselves nor suffer others to think to allow us time to prepare a proper amendment, for meeting an evil so great, and so generally acknowledged. I call, too, upon that inexorable corps of conservatives, who think that there can be no improvements in the science of government, to give their attention to this subject.

Gentlemen who were familiar with the legislature, knew that the last night of the session, always presented a scene of hurry and confusion, and that bills are then passed without reading, and carried through without consideration. Many bills of doubtful character, were then got through by being tacked, by way of amendment, to some other bill. Every member is then engaged in carrying through his favorite project, and heaps bill upon bill. He had seen a bill a yard or two long, passed on the last night of the session.

Bills are attached, by way of amendment, which could not pass in any other way, and members will vote for the whole, rather than lose their own little projects. There are many gentlemen, no doubt, who have been ignorant of the subjects of the bills for which they vote. Under a bill, providing for the measurement of coal, there is perhaps a provision for the reorganization of the orphan's court. The general law is swallowed in this manner, by the provision for an individual purpose. Bills come in sometimes from one house to the other, with strings of amend-

ments, all which are passed without reading. These were evils which every one who had been in the legislature had experienced. Bills, without any merit whatever, are carried in this manner. If two gentlemen have bills, and one loses his, he will feel like the fox in the fable, in regard to his friend's bill, and have no very great inclination to pass it; but, if both bills are tacked together, will they not have the united support of both of the gentlemen? A bill of twenty different objects will have as many friends as there are friends in the house towards each object; but, separately, these bills will have but very few friends. Bridges and turn-pikes, are put in such a mass that they cannot be resisted. As to holding elections, that ought to be fixed by the courts. The legislature, as a body, know nothing of the reasons for changing election districts. So the argument about election districts is of no weight whatever.

I see, sir, that the amendment offered, is liable to some objection; but we ask time to concoct some provision on the subject. The evil is felt, and, if it can be remedied, it should be. As to courts, declaring laws unconstitutional, because they are dissimilar, I doubt whether they could do it. It is true, that a lawyer might give it as his opinion, that a law was unconstitutional in such a case. Any lawyer almost would for a twenty dollar fee, give that as a serious and deliberate opinion, but I doubt whether the courts would meddle with it. It would be a stretch of judicial sovereignty which they would have no right to make. The court could not say that was unconstitutional which did not impugn the rights of any one.

I have much respect for the gentleman's opinion; but, if he gives it professionally, I must say, that I am of a different opinion. I believe this difficulty can be obviated, and I believe the evil complained of can be removed, and no gentleman who has spoken, hesitates to acknowledge that an evil does exist. It appears to me, that an amendment of this sort would answer the purpose, viz: "No amendment, not relating to the original subject of the bill, shall be made to it." The objection in regard to the interference of the courts, was of no weight. The courts did not go into the details of legislation—into the forms of business.

They take it for granted that laws are passed in accordance to the rules of legislation; and they would come into frequent collision with the legislature if they rested on any other presumption. I move the amendment which I have suggested.

Mr. EARLE wished to caution the friends of reform on this occasion to to be on their guard—and to recollect that this was not the final trial, that the constitution was still to come before the people, and that before them every objection would be made by the rich who will be tenacious of their advantages and power. If we pass an amendment which will enable the courts to set aside the laws, we shall lose thousands of votes by it. Let us obviate objections, therefore, as far as is in our power, even if we think we are right.

It will be found that lawyers differ on the question whether the courts will be bound to annul laws under the amendment of the gentleman from Bucks.

The gentleman from the city (Mr. Chauncey) says I have introduced by my proposed amendment something new into the principles of govern-

ment. Suppose it is new. Is it therefore erroneous? When improvements are going on in every other science, who will say that there shall be none in the science of government? The constitution of the United States was an innovation upon the principles of government. Who will say that no new principles shall be introduced in the science of government. But this is not a new principle? The supreme court has refused to decide upon the constitutionality of a law. They would not decide whether the Bank of the United States, was necessary to carry on the operations of the government, so they left it to the legislature to settle the question, whether the law establishing the bank was unconstitutional. I do not think any doubt of this kind is likely to arise. The legislature which passes the bill are judges whether the objects are dissimilar. Unless my amendment should be added to that of the gentleman from Bucks, I shall be compelled to vote against it. It is the great object of all parties to prevent the legislature from uniting together many subjects of a different character.

Mr. MEREDITH said he was about to suggest that it was the practice of the senate to refuse to admit into one bill more than one distinct and separate subject. But on the second reading the bills were referred to a committee with instructions to add amendments, and report the bills accordingly, and they were then passed by their titles.

Mr. DUNLOP said it would be impossible to refer a long bill on the last night of the session.

Mr. MEREDITH said he would cheerfully go with the gentleman to a certain extent. We could, in some degree, remove the evil, and show the sense of the convention on the subject, by adopting a provision that only one act of incorporation should be placed in any one bill.

He would very willingly support a prohibition that not more than one bill for local purposes, should be included in any act. A question would probably arise as to what was a local bill. It might even include general appropriations for internal improvement. He would only say, in conclusion, that if any mode could be devised, which would prevent the legislature from putting more than one private appropriation in one act, it should have his vote. The modification which he would suggest to the gentleman was—"that not more than one charter of incorporation shall be authorized in one act of assembly."

Mr. M'DOWELL said he could not accept the modification.

Mr. MERRILL said he had hoped that the gentleman from Bucks, (Mr. M'Dowell) would have accepted the modification. He, himself, had some time since, offered an amendment similar to that of the gentleman from Bucks, but which had been cut off by the previous question.

He (Mr. M.) imagined that the evil complained of was one that could be easily remedied. But, really, upon hearing some of the "secrets of the prison house" proclaimed here, it had become a matter of wonder to him how we had managed to preserve our liberties at all. It was, indeed, truly surprising that our liberties were not gone, past all redemption.

When we heard from the mouths of gentlemen on this floor, how members of the legislature had neglected the interests of their constituents,

and how utterly reckless they had shown themselves to be of their welfare, it was, he repeated, wonderful that we were now in the enjoyment of our liberties. It was extraordinary, under such circumstances, that the commonwealth could prosper. If it could withstand all those attacks, then were our institutions stronger, far stronger, than he had anticipated. The difficulty which he had to encounter was, to avoid ambiguity and complexity in framing such an amendment as he desired to see introduced, if at all.

The gentleman from Franklin (Mr. Dunlop) said, the great danger to be apprehended was in heaping amendment upon amendment, and law upon law. Why not, then, bring forward a provision prohibiting the passing of a law granting more than one charter? For his own part, he was content with the proposition he had heretofore offered and which was to that effect. He approved of the proposition of the gentleman from the city, (Mr. Meredith). The evil complained of, was so general in its character, that it could not be restricted to any terms. Let us apply all the remedy we could, and if we did not cure the evil, it must take its course. From what had been said by gentlemen in reference to the frauds and evils which were connected with our state legislation, one would almost suppose that we had been living on a volcano, and our legislation had been of the most ruinous character. He would ask the delegate from Bucks, if the amendment he had proposed, would be a remedy for the evil?

He asked the same question of the gentleman from Franklin, who however, did not say that the amendment would remedy the evil. Did men, who were bound to obey the laws, look at the title of a law? No; they looked at the body; and that was what they ought to do. A general title would answer every purpose, although the difficulty now seemed to be, that one title only was expressed, when there were many others not mentioned. With regard to the amendment to the amendment—that the legislature shall be judges in the last resort, he would say that they would be more competent judges than the courts, for, it was manifest there would be great difficulty experienced by them in arriving at a correct decision. How could they get evidence—go behind the law, and say this part of the bill has not been read three times, nor was it introduced at second reading? It was not those only who made the law, who were sworn to support it. The judges must declare the law void, or the constitution. What were they to do? He declared that he could see no propriety in the amendment to the amendment, and that the proposition of the delegate from Franklin, came nearer to what he thought was required. He had, himself, endeavored to frame such an amendment as would meet the evils, they were desirous of remedying, without setting forth the distinctions made in the Code Napoleon. In his opinion, it did not follow, that a scientific arrangement of laws necessarily made them good. It did not render them the more valuable, as our experience had proved. He thought it impossible to arrange the business of the world in so scientific a manner that every thing shall go on like clock-work. The people had a right to choose whom they please to make their laws, and he trusted they would long continue to exercise that right. He, however, could not agree to give his consent to putting any provision in the constitution, which was vague and ambiguous in its terms,

Mr. EARLE moved to amend, by striking out the word "enactments" and inserting—

"The legislature shall not unite in the same bill or law, objects, which, in its opinion, or in that of either house, shall be distinct in their nature or character. Nor shall the governor affix his signature to any act of assembly, which, in his opinions, shall embrace objects of a distinct nature or character aforesaid."

Mr. M'SHERRY, of Adams, said, if he understood rightly, the amendment was proposed to the twenty-third section of the article now before the convention. Several gentlemen had delivered their sentiments on the subject, and numerous propositions had been offered, with a view to meet the evil complained of, but none of them seemed to find favor with the body. He thought the amendment offered by the gentleman from Bucks, (Mr. M'Dowell) would not apply to the section under consideration, and he would therefore suggest to him to withdraw it for the present, and to offer it on a new section.

Mr. Cox, of Somerset, would assign one reason why he would vote against any restriction of the kind proposed. But, before he did so, he would notice the serious charge made by the gentleman from Franklin, (Mr. Dunlop.) That gentleman remarked that the conservatives would not think themselves, or permit others to do so. Now, he (Mr. C.) supposed the gentleman reasoned thus—

Mr. DUNLOP explained;—I said the previous question gentlemen would not think themselves, and did not wish others to think.

Mr. Cox said, the gentleman reasoned thus—the conservative members who do not vote as I do, and reason as I do, *ergo* they do not reason or think at all. Now, as this matter should be amicably settled, he (Mr. C.) would refer it to the delegate from the county of Philadelphia, who thought at all times, and let him settle it.

The gentleman from Franklin, had talked much about the evils that arose from what he was pleased to term the log-rolling system. He had complained bitterly of it.

He (Mr. C.) did not like the ground taken by the gentleman from the county of Philadelphia, who had turned to the list of acts passed, and pointed out those which did not happen to meet his approval. It was not a fair way of treating the subject. He supposed the gentleman from Franklin, did not want any more bills, and therefore, he was opposed to the system. He recollected, that his friend from Franklin was at Harrisburg, he would not say in the character of a borer, but was there as a member of the third house, at the time his bill was under consideration. He supposed that the gentleman was then in favor of the log-rolling system. He was opposed to any restriction, although there might be some evils growing out of the compromising which took place every session. He was opposed to inserting in the constitution, the restriction of the delegate from Bucks, (Mr. M'Dowell) or that of any other gentleman, because, it was virtually to say that no local legislation should be done for a county which might have only one or two members in the legislature. He would appeal to the knowledge and experience of every delegate, who had been members of the legislature, whether that would not be the effect of inserting such a provision.

At the first session, that he was in the legislature, there were twelve or fifteen bills of a local character, affecting the district that he represented, and he was not able, till within two or three weeks of the adjournment to get up any of them. There were other districts, represented by four, five, and six members each, all of whom had bills of a local character to dispose of. But, in consequence of the number of members to represent these districts, they possessed more influence than others, and it was not till they had got their bills disposed of, that he (Mr. C.) could get his up. The city and county of Philadelphia, and the counties of Bucks, Lancaster, and Chester, had always as much business of a local character as would take up the whole session, consequently the members from the smaller districts, had to attach their bills to other bills in order to get them passed. Hence originated the term "log-rolling."

He thought it might not be amiss, where there were but one or two members from a district, if they would look and examine this matter. It was not to be forgotten, that at the next census, there would be the following counties, being ten in number, viz :

Philadelphia, Lancaster, Chester, Allegheny, Berks, Bucks, York, Montgomery, Washington and Westmoreland, and also, the city of Philadelphia, making eleven representative districts, which would entitle them to fifty-one members in the house of representatives. By adding the county of Franklin, which was within a small fraction of one member more, there probably would be twelve representative districts by the time the next apportionment bill was passed. There would then be about forty-two counties entitled to forty-eight representatives; and thus, the consequence of putting in the constitution such a restriction as was proposed, would be to place it in the power of these twelve districts (if they thought proper to continue this course,) to pass all their own bills of a local character. He would not say, that no legislation would be done, but very little of a local character. The other counties might as well decline electing, as they would not be able to get their bills passed. He was quite certain that if it was not for this system of compromise, or attaching bills together, there would be no legislation for the smaller counties. He appealed to every gentleman present, who had been in the legislature, from the small counties, whether that would not be the consequence. He did not believe that there had been five bills passed within the last fifteen years, except by attaching them to other bills. Many important bills had been attached to others, towards the close of the session, and thereby were passed, which, under any other circumstances, could not have passed. It now remained to be seen, whether gentlemen would act in such a manner, as to deprive their constituents of all chance of getting their business of a local character done. He was against restrictions of any kind.

Mr. HASTINGS, of Jefferson, asked for a division of the question, to end with striking out.

The PRESIDENT said, that the division could not be made.

Mr. M'SHERRY asked, if it was not in the power of the gentleman from Bucks, to withdraw his amendment?

Mr. M'DOWELL said, that he would withdraw his amendment, with a view to offer it as a distinct section.

The convention then adjourned until half past three o'clock.

WEDNESDAY AFTERNOON, JANUARY 10, 1838.

The Convention resumed the second reading of the report of the committee to whom was referred the first article of the constitution, as reported by the committee of the whole.

The twenty-third section being again under consideration, no amendment was offered thereto.

A motion was made by Mr. RITER, of Philadelphia county, to amend the said report of the committee of the whole, by adding thereto the following new section, viz :

"SECT. —. It shall be the duty of the legislature at each session to employ a suitable person to examine bills and proposed laws, after the first and second readings, and to report whether the language thereof be in any degree ambiguous or liable to misconstruction, and what changes, if any, will render it more explicit."

And on the question,

Will the Convention agree so to amend the said report of the committee of the whole ?

The yeas and nays were required by Mr. DICKEY, and Mr. RITER, and are as fellow, viz :

YEAS—Messrs. Bigelow, Cummin, Donagan, Earle, Fleming, Grennell, Hyde, Mann, Miller, Riter, Shellito, Taggart, Weaver, Woodward—14.

NAYS—Messrs. Agnew, Baldwin, Barclay, Bell, Biddle, Bonham, Brown, of Lancaster, Brown, of Northampton, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clarke, of Beaver, Clark, of Dauphin, Cleavinger, Coates, Cochran, Cope, Cox, Crain, Crawford, Crum, Cunningham, Curll, Darlington, Darrah, Denny, Dickey, Dickerson, Dillinger, Donnell, Dunlop, Farrelly, Foulkrod, Fuller, Gearhart, Harris, Hastings, Hayhurst, Hays, Helfenstein, Henderson, of Allegheny, Henderson, of Dauphin, Heister, High, Hout, Jenks, Kennedy, Kerr, Konigmacher, Krebs, Long, Lyons, Maclay, M'Call, M'Dowell, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Ritter, Royer, Russell, Saeger, Scheetz, Sellers, Seltzer, Serrill, Sill, Smith, of Columbia, Smyth, of Centre, Snively, Sterigere, Stickel, Todd, Weidman, White, Sergeant, President—83.

So the question was determined in the negative.

A motion was made by Mr. STERIGERE, of Montgomery, to amend the said report by adding thereto the following, viz :

“ No bank, rail road company, navigation company or canal company, shall be chartered, unless three-fifths of all the members of each branch of the legislature concur therein. No bank shall be chartered with a capital of more than two hundred thousand dollars, unless two-thirds of all the members of each branch of the legislature concur therein ; nor any bank be chartered with capital greater than one million of dollars, nor for a longer period than ten years, unless the law chartering the same be passed by three-fourths of all the members of each branch of the legislature at two successive sessions, and be approved by the governor ; and the bill which may be passed the first session shall be published with the laws enacted at such session.

“ No bonus shall be required or allowed to be paid by any bank for the corporate privileges granted to the company, and every law chartering or rechartering a bank, which provides for the payment of any such bonus, shall be wholly void ; but all sums of money required to be paid by any bank for such privileges shall be a yearly or half-yearly tax on the stock or the profits of the company.

“ The legislature shall have power to repeal or alter any charter which has been or may be granted to any bank, whenever in their opinion the same is injurious to the citizens of the commonwealth ; but no such alteration shall be binding on any bank unless the same be assented to by a majority of the stockholders, certified in such manner as may be prescribed by law ; and in case the bank whose charter may be altered, shall neglect or refuse to assent to such alteration within the time fixed by law ; the chartered privileges granted to such bank shall thenceforth cease and determine, except so far and for so long a time as may be necessary to collect its debts and wind up its concerns, not exceeding two years : *Provided*, That when any bank charter shall be repealed, or shall cease as aforesaid, in case any bonus or sum of money other than a tax on the stock or annual profits of the bank may have been paid to the state by such bank for the privileges granted to it, the state shall retain for the privileges enjoyed only so much of such bonus or sum as will be a just proportion of the bonus or sum such bank was to pay for the privileges granted, having a due regard to the amount of capital and the duration of the charter, to be determined in such manner as may be provided by law.”

Mr. STERIGERE said, he had no desire to go into an argument. The subject had been discussed at length. But he rose merely to remark that the first branch of the amendment refers to those corporations which come in collision with individual property. These are the banks, rail road companies, navigation and canal companies. It provides that a bank of small capital shall be chartered by two-thirds of each branch of the legislature : if the capital shall exceed half a million, three-fourths to be required ; and, if the capital shall exceed a million, the vote of three-fourths of two successive legislatures to be necessary before a charter shall be obtained. The next clause of the amendment refers to bonuses, and has been recommended by the chief magistrate of the commonwealth. The last clause relates to the repealing of charters. As yet, the convention had come to no direct vote on this question. He would

not go into any argument. The minds of gentlemen are made up on this subject. He would merely ask that the amendment be divided, so as to have the vote between each branch separately. On this question he asked the yeas and nays.

And the yeas and nays were accordingly ordered.

The question was then taken on the first branch of the amendment as in the following form, viz :

“ No bank, rail road company or canal company shall be chartered, unless three-fourths of all the members of each branch of the legislature concur therein. No bank shall be chartered with a capital of more two hundred thousand dollars, unless two-thirds of all the members of each branch of the legislature concur therein. Nor any bank with a capital of more than five hundred thousand dollars, unless three-fourths of all the members of each branch concur therein. Nor shall any bank be chartered with a capital greater than one million of dollars, nor for a longer period than ten years, unless the law chartering the same be passed by three-fourths of all the members of each branch of the legislature at two successive sessions, and be approved by the governor ; and the bill which may be passed the first session shall be published with the laws enacted at such session.”

YEAS—Messrs. Banks, Bonham, Brown, of Northampton, Clarke, of Indiana, Cummin, Darrah, Dillinger, Donagan, Fleming, Foulkrod, Fry, Fuller, Hastings, Helffenstein, High, Hyde, Keim, Krebs, Lyons, Magee, Mann, Martin, M'Cahen, Miller, Read, Ritter, Scheetz, Sellers, Shellito, Smyth, of Centre, Sterigere, Stickel, Weaver, White, Woodward—35.

NAYS—Messrs. Agnew, Baldwin, Barclay, Barndollar, Barniz, Bedford, Bell, Biddle, Bigelow, Brown, of Lancaster, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clarke, of Beaver, Clark, of Dauphin, Cleavinger, Coates, Cochran, Cope, Cox, Craig, Crain, Crawford, Crum, Cunningham, Curll, Darlington, Denny, Dickey, Dickerson, Dunlop, Earle, Farrelly, Gamble, Gearhart, Grenell, Harris, Hayhurst, Hayes, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, Hopkinson, Hout, Ingersoll, Jenks, Kennedy, Kerr, Konigsmacher, Long, Maclay, M'Call, M'Dowell, M'Serry, Meredith Merrill, Merkel, Montgomery, Overfield, Pennypacker, Pollock, Porter, of Lancaster, Reigart, Riter, Royer, Russell, Saeger, Scott, Seltzer, Serrill, Sill, Smith, of Columbia, Snively, Sturdevant, Taggart, Todd, Weidman, Young, Sergeant, *President*—81.

So the question was determined in the negative.

The question being, will the convention agree to the second division of the amendment, as follows :

“ No bonus shall be required or allowed to be paid by any bank for the corporate privileges granted to the company, and every law, chartering or rechartering a bank, which provides for the payment of any such bonus, shall be wholly void ; but all sums of money required to be paid by any bank for such privileges, shall be a yearly, or half yearly tax on the stock or the profits of the company.”

The yeas and nays were required by Mr. STERIGERE, and Mr. KREBS, and are as follow, viz :

YEAS—Messrs. Bell, Brown, of Northampton, Cleavinger, Crain, Cummin, Curll, Darrah, Dillinger, Donagan, Doran, Earle, Fleming, Foulkrod, Fry, Fuller, Hastings, Helffenstein, Hyde, Ingersoll, Keim, Krebs, Lyons, Magee, Mann, Martin, M'Cahen, Miller, Read, Ritter, Scheetz, Sellers, Shellito, Smyth, of Centre, Sterigere, Stickel, Weaver, White, Woodward—38.

NAYS—Messrs. Agnew, Baldwin, Banks, Barclay, Barndollar, Barnitz, Bedford, Biddle, Bigelow, Bonham, Brown, of Lancaster, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Coates, Cochran, Cope, Cox, Craig, Crawford, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Dunlop, Farrelly, Forward, Gamble, Gearhart, Grenell, Harris, Hayhurst, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, High, Hopkinson, Hout, Jenks, Kennedy, Kerr, Konigsmacher, Long, MacLay, M'Call, M'Dowell, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Overfield, Payne, Pennypacker, Pollock, Porter, of Lancaster, Reigart, Royer, Russell, Saeger, Scott, Seltzer, Serrill, Sill, Smith, of Columbia, Snively, Sturdevant, Taggart, Thomas, Todd, Weidman, Young, Sergeant, *President*—81.

So the question was determined in the negative.

And the third division of the amendment being under consideration, in the words as follows, viz :

“ The legislature shall have power to repeal or alter any charter which has been, or may be granted to any bank, whenever, in their opinion, the same is injurious to the citizens of the commonwealth ; but no such alteration shall be binding on any bank, unless the same be assented to by a majority of the stockholders, certified in such manner as may be prescribed by law ; and in case the bank whose charter may be altered shall neglect, or refuse to assent to such alteration, within the time fixed by law, the chartered privileges granted to such bank, shall thenceforth cease and determine, except so far, and for so long a time as may be necessary to collect its debts, and wind up its concerns, not exceeding two years :

“ Provided, That when any charter shall be repealed, or shall cease as aforesaid, in case any bonus or sum of money, other than a tax on the stock or annual profits of the bank, may have been paid to the state by such bank, for the privileges granted to it, the state shall retain for the privileges enjoyed, only so much of such bonus or sum as will be a just proportion of the bonus or sum such bank was to pay for the privileges granted, having a due regard to the amount of capital, and the duration of the charter, to be determined in such manner as may be prescribed by law.”

Mr. READ moved to amend the same, by striking out all after the word “ commonwealth,” to the word provided.

Mr. DENNY doubted, he said, whether it was in order to strike out any part.

Mr. STERIGERE accepted the amendment as a modification.

Mr. MEREDITH would ask if the gentleman could now go back, and modify his proposition, after a vote had been taken on the two first divisions of it ?

The CHAIR did not consider it in order to do so, and stated the question now to be on the motion of the gentleman from Susquehanna, to strike from the third branch of the proposition, from the word “ commonwealth” to the word “ provided.”

Mr. DICKEY considered both the motion to modify, and the motion to strike out, as not being in order. Why, sir, what is the state of this question ? The gentleman from Montgomery moved a proposition. I call for the previous question, the house does not, to be sure, sustain that call,

but proceeds to take the vote upon the proposition of the gentleman from Montgomery, in three separate divisions, and negatives the two first divisions. He would ask, then, whether any thing else could be done than take a vote on the third division, and whether it was in the power of the mover to modify it, or of any other gentleman to amend it?

Mr. STERIGERE was satisfied that he had the power to modify any part of his own proposition, until the vote was taken upon it, but as the Chair had decided otherwise, and as the same object would be obtained by the motion of the gentleman from Susquehanna, to strike out, he would not press his right.

Mr. DENNY did not consider that the convention was now prepared to vote on the question. He, therefore, considered it his duty, from the course which had been pursued here, to move the previous question; which motion was seconded by eighteen members.

Mr. FULLER inquired what the main question would be, in case the previous question was sustained?

The CHAIR said, that the main question would be on preparing and engrossing for a third reading, the amendments to the first article.

Mr. READ would inquire if the main question would not be on the proposed new section?

The CHAIR replied, that it would not, as the previous question, if sustained, would cut off the new section.

Mr. BROWN, of the county of Philadelphia, would inquire if the previous question, a few days ago, when moved upon a new section, did not apply to that section, and the main question was on agreeing to the said new section?

The CHAIR stated, that in the case referred to, the report of the committee was not gone through with; consequently, when the previous question was moved on a separate section, there was nothing else for it to apply to than the section. Now, however, the report of the committee had been gone through, and the application of the previous question would be to the report of the committee, and would cut off all amendments.

Mr. SMYTH, of Centre, called for the yeas and nays on ordering the main question, which were ordered, and were; yeas 59, nays 62, as follows:

YEAS—Messrs. Agnew, Baldwin, Barndollar, Barnitz, Biddle, Brown, of Lancaster, Carey, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clarke, of Beaver, Clark, of Dauphin, Coates, Cochran, Cope, Cox, Craig, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Dunlop, Farrelly, Forward, Harris, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Houpt, Jenks, Kerr, Konigsmacher, Long, Maclay, M'Call, M'Cherry, Meredith, Merrill, Merkel, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Reigart, Royer, Russell, Saeger, Scott, Seltzer, Sorrell, Sill, Snively, Thomas, Todd, Weidman, Young, Sergeant, *President*—59.

NAYS—Messrs. Banks, Barclay, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Clarke, of Indiana, Cleavinger, Crain, Crawford, Cummin, Cull, Darrab, Dillinger, Donagan, Donnell, Doran, Earle, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hastings, Hayhurst, Helffenstein, Heister, High, Hopkinson, Hyde, Ingersoll, Keim, Kennedy, Krebs, Lyons, Magee, Mann, Martin, M'Cahen, M'Dowell, Miller, Overfield, Payne, Read, Riter, Ritter, Scheetz, Sellers Shellito, Smith, of Columbia, Smyth, of Centre, Sterigere, Stückel, Sturdevant, Taggart, Weaver, White, Woodward—62.

So the main question was not ordered to be put.

The question being on the motion of Mr. READ, to amend the third division, by striking out after the word "commonwealth," to the word "provided,"

Mr. CURLL, asked the yeas and nays, which were as follows, viz :

YEAS.—Messrs. Banks, Barclay, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown of Philadelphia, Clarke, of Indiana, Cleavinger, Crain, Crawford, Cummin, Curll, Darrah, Dillinger, Donagan, Donnell, Doran, Earle, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hastings, Hayhurst, Helffenstein, High, Hyde, Ingersoll, Keim, Kennedy, Krebs, Lyons, Magee, Mann, Martin, M'Cahen, Miller, Overfield, Payne, Read, Riter, Ritter, Schetz, Sellers, Shellito, Smyth, of Centre, Sterigere, Stickel, Taggart, Weaver, White, Woodward—57.

NAYS.—Messrs. Agnew, Baldwin, Barndollar, Barnitz, Biddle, Brown, of Lancaster, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clarke, of Beaver, Clark, of Dauphin, Coates, Cochran, Cope, Cox, Craig, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Dunlop, Farrelly, Forward, Harris, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Heister, Hopkinson, Houpt, Jenks, Kerr, Konigsmacher, Long, Maclay, M'Call, M'Dowell, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Reigart, Royer, Russell, Saeger, Scott, Seltzer, Serrill, Sill, Snively, Sturdevant, Thomas, Todd, Weidman, Young, Sergeant, *President*—64.

So the question was determined in the negative.

Mr. BELL, moved to amend the third division of the amendment so as to read as follows :

"No bill providing for the creation or continuance of a corporation to carry on the business of banking, shall become a law, unless it be passed at two annual, and immediately succeeding, sessions of the general assembly, and any such law which may be hereafter enacted may be repealed, altered or modified by the general assembly, whether the power to repeal, alter or modify be reserved in the law creating such corporation or not; but when such law shall be repealed or any of the corporate privileges granted thereby resumed, provision shall be made for adequate compensation to the corporators."

Mr. BELL said, it would not be necessary for him to offer his reasons at any length, in support of this amendment. This was the same amendment which he offered yesterday, when it was cut off by the previous question. He now offered it again, and not wishing to induce a long and profitless debate, he would offer a simple explanation. It would be remembered, that the gentleman from Lancaster offered an amendment embodying the first branch of the amendment.

The gentleman from Luzerne, also, offered an amendment which was inadmissible, a long and learned discussion took place upon it, but before the vote was taken, the previous question was called, and we were prevented from coming to a direct conclusion upon the subject. My only desire is to present an opportunity to vote directly on the question. It is only necessary to look at the history of our legislation, to see the necessity of adopting some restriction of the sort now proposed.

The major part of our laws, was acts of private incorporation. There is a morbid disposition in the Pennsylvania legislature, for multiplying acts of this sort. The friends of the Bank of the United States, anticipating some difficulty with the government of the state, introduced in the

charter of that institution, no provision for a repeal. The object of the amendment was, to guard against the recurrence of such a case, by making all charters repealable, and by requiring the assent of two successive legislatures to their adoption.

In reference to what had been said about abuses—it was true, and could not be denied. Now, what did he (Mr. B.) propose? Simply to reverse, so far as we are interested in Pennsylvania, the decision made by the framers of the constitution of the United States, and to say, that those who shall hereafter accept at the hands of the legislature, a contract, (if contract it be) for banking purposes, must do so, subject to its being taken away from them, if the public interests require it. The legislature shall be compelled to alter, modify, or repeal the charter, they making adequate compensation to the corporators. Could there be any objection? He believed, without a single exception, but the one he had alluded to, all acts of assembly incorporating banks, passed within the last two years, contained a provision, that a succeeding legislature should have the power of modifying or repealing the charter, when the public interest required it. And, no gentleman here had gone so far as to say, that the banks had not accepted the provision, and carried their corporation into operation. In no instance had this rule been departed from, except in that of the Pennsylvania Bank of the United States. There remained but a single inquiry, and that had been answered learnedly and ingeniously by a delegate on this floor, and that was—“Would the legislature abuse the power?” We must all agree that the power was good, unless they abused it. We must look at the history of that which had past, to enable us to judge of that which was to come. They had not abused it in any case! Yes! so chary had the legislature been on the subject, that we had now the startling spectacle of the Pennsylvania Bank of the United States,—standing in open hostility to the law, made for their government, putting at defiance the community, and the power of the community. And, yet the legislature of Pennsylvania, whom we all professed to revere so much, having it in their power to repeal all and every one of the charters of the moneyed corporations, existing in the limits of the commonwealth of Pennsylvania, had not moved, nor was it likely they would. Was it probable, he asked, that they would abuse this power?

[Here Mr. B. related the circumstances, connected with the granting of an act of incorporation to the Harrisburg water company in 1836, in illustration and defence of the positions he had heretofore taken, in reference to the fact of the legislature, being inclined to abuse the power reposed in them.]

He, Mr. B. desired to impose such restrictions on the legislature, as would prevent them from doing what they did in 1836. What he had said, was sufficient to show, that the legislature should not divest themselves of the power to repeal, modify, &c., and that there was no danger in their abusing the power. Ought there not to be some check imposed on hasty legislation, in respect to the granting of charters of incorporation? And, could any objection be reasonably made to that check which he proposed to place on legislative acts? He concluded by reiterating his solemn conviction of the imperious necessity of introducing in the constitution, a clause of the character he proposed as a security to the peo-

Gearhart, Gilmore, Grenell, Harris, Hastings, Hayhurst, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, High, Hopkinson, Houpt, Hyde, Ingersoll, Jenks, Kennedy, Kerr, Konigsmacher, Long, Lyons, Maclay, Martin, M'Call, M'Dowell, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Overfield, Payne, Pennypacker, Pollock, Porter, of Lancaster, Purviance, Reigart, Read, Royer, Russell, Seager, Scott, Seltzer, Serrill, Shellito, Sill, Smith, of Columbia, Snively, Sturdevant, Taggart, Thomas, Todd, Weaver, Weidman, Woodward, Young, Sergeant, *President*—92.

So the question was determined in the negative.

Mr. McDOWELL, moved to amend the report of the committee by adding thereto the following new section :

“The title of every bill passed into a law shall distinctly announce its character, and no two distinct or dissimilar subjects of legislation shall be included in one act, nor shall more than one charter of incorporation be passed in the same law.”

And the said amendment being under consideration,

Mr. CAREY, moved an adjournment, which was disagreed to.

Mr. DUNLOP said, before the question was taken, he wished to state an amendment, which he wished to offer. It was this, that no amendment should be made to a bill within the last ten days of a session. He did not altogether approve of the amendment of the gentleman from Bucks. It might be a question, under that amendment, whether the law should not be submitted to the jury, for their decision upon its constitutionality. The amendment which he now proposed would, if carried, put an end to the incongruity of legislation. The two houses could be obliged to pass every bill as first read, and neither house would make an amendment not relating to the subject of the bill. All the hurry and agitation, which attend the close of a session would thus be prevented.

Mr. McDOWELL, had a few words to say, in reply. It was admitted, on all sides, that the evil proposed to be cured, was very great, and he believed it possible to provide an adequate remedy for it. The operation of the amendment offered by the gentleman from Franklin, would be to put in every bill forty different subjects, before the legislature got within the ten days of the close of the session. The amendment only changed the time of doing what we all so much deprecate. There would be vast confusion, and every sort of log-rolling, before the bill was reported. He regretted that there were some here who were open advocates of log-rolling. If a practice was wrong in itself, he did not think it ought to be tolerated on the score of convenience. If no constitutional provision can prevent log-rolling, as we are told, then we are bound at least to shew, that we condemn the practice, by placing the condemnation on the face of the constitution.

Mr. HEISTER, moved to amend the amendment by inserting before the words “the title,” in the beginning of said amendment, the words as follow, viz :

“The legislature shall hereafter grant no charter of incorporation, until after five months’ public notice of the application for the same shall have been given in such manner as shall be prescribed by law ; nor shall any coporation possessing banking or discounting privileges be continued for

more than twenty years without renewal ; neither shall any corporation be created, continued or revived, whose charter may not be modified, altered or repealed by the concurrent action of two successive legislatures, subject to such indemnification as by the said two successive legislatures shall be deemed just and equitable."

Mr. STURDEVANT said, he felt perfectly well satisfied, that we should make no alteration, and he called for the previous question,—which was seconded.

On the question, " Shall the main question be now put ?"

The yeas and nays were required by Mr. MANN and Mr. SELLERS, and are as follow, viz :

YEAS—Messrs. Agnew, Baldwin, Barndollar, Barnitz, Biddle, Brown, of Lancaster, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clarke, of Beaver, Clark, of Dauphin, Cochran, Cope, Cox, Craig, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Dunlop, Farrelly, Forward, Harris, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Houpt, Jenks, Kerr, Konigsmacher, Long, Maclay, M'Call, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Reigart, Royer, Russell, Saeger, Scott, Seltzer, Serrill, Sill, Snively, Sturdevant, Thomas, Todd, Weidman, Young, . Sergeant, *President*—59.

NAYS—Messrs. Banks, Barclay, Bedford, Bell, Bigelow, Bonham, Brown, of Philadelphia, Clarke, of Indiana, Cleavinger, Crain, Crawford, Cummin, Curl, Darrah, Dillinger, Donagan, Donnell, Doran, Earle, Fleming, Feulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hastings, Hayhurst, Helffenstein, Hiester, High, Hopkinson, Hyde, Ingersoll, Keim, Kennedy, Krebs, Lyons, Magee, Mann, Martin, M'Cahen, M'Dowell, Miller, Overfield, Payne, Purviance, Read, Ritter, Scheetz, Sellers, Shellito, Smith, of Columbia, Smyth, of Centre, Sterigere, Stickel, Taggart, Weaver, White, Woodward—61.

So the question was determined in the negative.

On motion of Mr. GAMBLE,

The convention then adjourned till half past ten o'clock to-morrow morning.

THURSDAY, JANUARY 11, 1838.

Mr. MARTIN, of Philadelphia county, presented a memorial from citizens of the city and county of Philadelphia, praying that the constitution may be so amended as to provide that the civil rights, privileges or capacities of any citizen shall in no way be affected, diminished or enlarged, merely on account of his religious opinions ;

Which was laid on the table.

Mr. DARRAH, of Berks, presented a memorial similar in its character from citizens of the county of Bucks ;

Which was also laid on the table.

Mr. M'CAHEN, of Philadelphia county, presented two memorials from citizens of Bucks county, praying that the constitution may be so amended as to prohibit negroes from exercising the right of suffrage ,

Which was also laid on the table.

Mr. SELLERS, of Montgomery, presented a memorial from citizens of Montgomery county, praying that measures may be adopted, so as effectually to prevent all amalgamation between the white and coloured population, so far as regards the government of the state ;

Which was also laid on the table.

Mr. COATES, of Lancaster, presented a memorial from citizens of Montgomery county, praying that no amendment may be made in the present constitution, having a tendency to create distinctions in the rights and privileges of citizenship, based upon complexion ;

Which was also laid on the table.

Mr. CAKEY, of Bucks, presented a memorial, similar in its character, from citizens of Bucks county ;

Which was also laid on the table.

Mr. THOMAS, of Chester, presented a similar petition from citizens of Chester county ;

Which was also laid on the table.

Mr. SCOTT, of Philadelphia, presented a memorial from citizens of the city and county of Philadelphia, praying that when the convention again acts on the subject of education, a provision for the introduction of the German language, as a part of it, may be taken into consideration, and receive a favorable determination, by ordaining that provision may be made by law, in such mode and manner, and under such regulations as shall be deemed most proper for teaching the German language in the public schools, and such colleges and seminaries of learning as are, or may be, under the control or direction of the state.

On motion of Mr. SCOTT, this memorial was referred to the committee to whom was referred the seventh article of the constitution.

Mr. EARLE, of Philadelphia county, submitted the following resolution, viz :

Resolved, That the committee appointed on the second instant, be instructed to inquire whether any of the amendments now adopted, or which may be adopted by this convention, are in anywise ambiguous in their language, or have, in the opinion of said committee, or any portion of it, to receive constructions different from what the said committee or any portion of it may believe to have been intended by this convention ; and that the said committee be instructed to report what changes or additions of phraseology, if any, are necessary, in its opinion, to obviate all danger of misconstruction of the true meaning of the said amendments.

Mr. EARLE said, his object was to see a careful revision of the amendments which had been heretofore, or might, hereafter be, adopted, so that the language might not be construed otherwise than the convention designed. He would ask the convention, at this time, to proceed to the second reading and consideration of this resolution, and on the question he demanded the yeas and nays, which were ordered.

The question was then taken on the second reading of the resolution, and was determined in the negative—yeas 22 nays 90—as follows, viz :

YEAS—Messrs. Banks, Bell, Brown, of Nothampton, Cleavinger, Coates, Cummin, Darrah, Dillinger, Donagan, Dunlop, Earle, Fry, Gambie, Grennell, Ingersoll, Kennody, Mann, McCahen, Miller, Nevin, Rieter, Sellers—22.

NAYS—Messrs. Agnew, Baldwin, Barclay, Barndollar, Barnitz, Bedford, Biddle, Bonham, Brown, of Lancaster, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clapp, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Cochran, Craig, Crain, Crawford, Crum, Cunningham, Curil, Dirlington, Denny, Dickerson, Donnell, Fleming, Forward, Foulkrod, Fuller, Gearhart, Giltmore, Hastings, Hayhurst, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Heister, High, Hopkinson, Huppt, Hyde, Jenks, Kerr, Konigsmacher, Krebs, Lyons, Mac'ay, Magee, Martin, McCall, McDowell, McSherry, Merelith, Merrill, Merkel, Montgomery, Payne, Pennypacker, Pollock, Porter, of Lancaster, Purviance, Reigart, Read, Ritter, Royer, Russell, Saeger, Scott, Seltzer, Serrill, Sill, Smith, of Columbia, Smyth, of Centre, Snively, Steigere, Stickel, Sturdevant, Taggart, Thomas, Todd, Weaver, Weidman, White Woodward, Young, Sergeant, *President*—90.

Mr. CUNNINGHAM, of Mercer, submitted the following resolution, which was laid on the table for future consideration, and ordered to be printed, viz :

Resolved, That the first article of the constitution be amended by adding the following as a new section, to wit :

“The legislature shall not create, renew, or continue by one law, more than one incorporation ; nor shall any one law create, renew or continue a corporation, and contain any provision in relation to the altering of any other act of incorporation : nor shall any one law contain any provision in relation to the altering of more than one act of incorporation, and no incorporation shall possess banking or discounting privileges, unless such privileges be granted by law, enacted at two successive sessions of the legislature.”

Mr. BELL, of Chester, submitted the following resolution, which was laid on the table for future consideration, viz :

Resolved, That the amendments to the constitution agreed to by the convention, ought not to be submitted to the people as a single proposition, to be approved or disapproved ; but the same ought to be classified according to the subject matter, and submitted as several and distinct propositions, so that an opportunity may be given to approve some and disapprove others, if a majority of the people see fit : and that a committee be appointed to report to the convention a classification of the amendments, and the manner in which the same shall be submitted to the citizens of this commonwealth.

Mr. HASTINGS, of Jefferson, offered the following resolution,—which was read and laid on the table, for future consideration :

Resolved, That the committee on printing be and is hereby instructed to inquire and report the cause of so much delay in printing the Journals of this Convention.

UNFINISHED BUSINESS.

The convention moved the second reading and consideration, of the following resolution, offered some days since, by Mr. BEDFORD, of Luzerne :

Resolved, That the following new rule be adopted by the convention, viz : “ That when any twenty delegates rise in their places and move the question on any pending amendment, it shall be the duty of the presiding officer to take the vote of the body on sustaining such call ; and if such call shall be sustained by a majority, the question shall be taken on such amendment without further debate.

Mr. CUNNINGHAM, of Mercer, would make two or three remarks, in reference to the resolution under consideration. He was opposed to the passage of the resolution in any shape whatever. He objected to it because it would interfere with the previous question. Time would be lost in discussing points of order. Among the objections, he yesterday urged against the resolution, was this, that a gentleman would have it in his power to spring upon us a resolution, and compel us to vote on it, without giving an opportunity for examining and considering it. He must protest against the adoption of any rule which should coerce delegates to act, without consideration, on any proposition, for none ought to go out to the people, until they had been well considered and deliberated upon. We might peril the fate of all the amendments by one hasty act. If this resolution should pass, we might as well take out all the resolutions from our packets in bundles, and send them to the secretary to be adopted.

Mr. BEDFORD, of Luzerne, said there could be no danger of the question being sprung on the convention, as it required a majority, and unless the call for it was first sustained, the question could not be put. Conceiving that his resolution was fully understood, and not wishing to consume any more time, he would move the previous question.

The call being sustained, and the main question being ordered to be put ;

The question was then taken on the resolution, which was determined in the negative—yeas 59 ; nays 65.

YEAS—Messrs. Bank, Barclay, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Clarke, of Indiana, Cleavinger, Crain, Crawford, Cummin, Cull, Darrab, Dillinger, Donagan, Donnell, Doran, Fleming, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hastings, Hayhurst, Helfenstein, Hiester, High, Hyde, Ingersoll, Kennedy, Krebs, Lyons, Magee, Mann, M'Cahen, Miller, Nevin, Overfield, Payne, Purviance, Read, Riter, Ritter, Scheetz, Sellers, Shellito, Smith, of Columbia, Smyth, of Centre, Steigere, Stuckel, Sturdevant, Taggart, Weaver, Woodward—59.

NAYS—Messrs. Agnew, Baldwin, Barndollar, Barnitz, Biddle, Brown, of Lancaster, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clapp, Clarke, of Beaver, Cunningham, Darlington, Denny, Dickey, Dickerson, Dunlop, Earle, Farrelly, Forward, Hays, Henderson of Allegheny, Henderson, of Dauphin, Hopkinson, M'Call, M'Dowell, M'Sherry, Meredith, Morrill, Merkel,

Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Reigart, Royer, Russell, Clark, of Dauphin, Coates, Cochran, Cope, Cox, Craig, Crum, Hout, Jenks, Kerr, Konigsmacher, Long, Maclay, Martin, Saeger, Scott, Seltzer, Serrill, Sill, Snively, Thomas, Todd, Weidman, White, Young, Sergeant, *President*—65.

The convention resumed the second reading of the report of the committee on the first article of the constitution.

The question pending, was on the amendment of Mr. HEISTER to the amendment of Mr. M'DOWELL.

Mr. M'DOWELL withdrew his amendment.

Mr. REIGART, of Lancaster, moved to amend by adding the following section, as a new one :

SECT. — No corporate body shall be hereafter created, with banking, discounting, or loaning privileges, without the concurrent action of two successive legislatures ; nor shall any law hereafter enacted contain more than the enactment of one corporate body."

Mr. HEISTER, of Lancaster, moved to amend the amendment by substituting the following :

" The legislature shall not grant any charter of incorporation, until after three months' public notice of the application for the same shall have been given, in such a manner as shall be prescribed by law ; nor shall any corporation hereafter created, possessing banking, discounting or loaning privileges, be continued for more than fifteen years without renewal. And no such corporation shall be created, extended, or revived, whose charter may not be modified, altered, or repealed, by the concurrent action of two successive legislatures, subject to an equitable and just indemnification."

Mr. HEISTER said, that shortly after taking his seat as a member of the convention, he submitted a series of resolutions, one of which fully expressed the idea he entertained in relation to restraining the legislature, in granting acts of incorporation. He had heard a great deal of argument both for and against, granting acts of incorporation. His mind, however, on the subject, was still unchanged. He thought it was highly necessary and proper, that some restriction should be put on the legislature to prevent them from granting acts of incorporation so freely and readily as they had done heretofore. The proposition which he had submitted, he preferred, to that of his colleague, because it was less radical. His required the concurrent action of two successive legislatures, to grant banking, discounting, or loaning privileges, while his (Mr. H's) did not. It merely required three months' public notice, to be given by the persons intending to apply for an act of incorporation of any kind. He considered it only fair and proper, that this notice should be given, as it would afford an opportunity to the owners of property, through which the applicants might contemplate making a rail road, canal, or any thing else, to protest against the granting of an act for that purpose, if they should think proper.

Under the existing constitution, no such opportunity was afforded an individual, and the consequence was that he not unfrequently suffered very heavy losses. He thought that the amendment would be beneficial, inasmuch as it would prevent hasty legislation in reference to the granting

of acts of incorporation. That was the first proposition of his amendment. The second was, that no banking corporation shall be chartered for a longer period than fifteen years. It was highly proper that there should be some restrictions, or limitation to the charters, and that they should be brought before the legislature a reasonable time, in order that it might pass them. If a bank had been properly conducted, there was no apprehension to be entertained as to its not being re-chartered. He had got a list before him of those banks whose charters had been extended—one was for eight years, some for ten; one for fifteen; and, one for twenty. So that fifteen years was about the average period for which the banks had been re-chartered. The third proposition was, that it was necessary to obtain the concurrent action of two successive legislatures in order to create, extend, or revive a charter. Although his amendment might be deemed somewhat radical by some; yet it was not so radical as some acts in relation to this subject which had been passed by the legislature. By an act passed in 1814, the legislature say:

“Be it further enacted, &c. That if it shall appear that the charters and privileges by this act granted to any of the banks herein mentioned are injurious to the citizens of this commonwealth, the legislature shall have full power to revoke and annul them, or any of them, at any time they may think proper.”

Here then, the legislature had reserved to themselves the right of annulling or repealing a charter; and, there was nothing said about remunerating the corporation for the loss they would necessarily sustain. In the act of 25th March, 1824, the same identical words are incorporated.

“SECTION 10. If it shall appear that the charters and privileges by this act granted to any of the banks herein mentioned, are injurious to the citizens of this commonwealth, the legislature reserve full power to alter, revoke, and annul them, or any of them, at any time they may think proper.”

So it seemed that this was a principle which the legislature had carried out in granting acts of incorporation generally. There were only two or three exceptions to it. He thought that his amendment offered greater protection to the banks, and was preferable to the section he had just read. He entertained no doubt that one of the two propositions before the body would be agreed to. He trusted his proposition would be found acceptable, and that a vote would be taken on it; and, if it was not adopted, no doubt the other would be. Although he was not opposed to banking incorporations, for he believed great benefit had resulted from them, yet he did think there were many of our internal improvements which would have been better done by the state than by individuals, through the aid of banks.

The legislature had, perhaps, in some instances, granted acts of incorporation rashly for the making of various internal improvements, and thereby deprived the state of a great deal of revenue which might have been profitably and advantageously expended. While willing freely to admit that banks had been a benefit, still he was of opinion that a good thing might be overdone. Every act that was passed which deprived the people of a benefit, and of certain rights, was anti-democratic and anti-republican.

In a monarchy, it was different, for there the power given to companies was so much taken from the monarch. He would repeat, that in a republic the reverse was the fact. He thought the time had arrived when some restriction ought to be put on the legislature, for there was quite a mania for granting acts of incorporation. He was free to admit that banks were beneficial to the community, under proper regulations. He preferred his amendment to the other, because it was the most conservative of the two.

Mr. CUNNINGHAM said, that if he had succeeded in getting the floor, before the gentleman from Lancaster. (Mr. Reigart) he intended to have proposed the resolution he had offered, as an amendment. He, however, could not now do it. In order that gentlemen might be at no loss to understand his amendment, he would offer a few explanations in relation to it. His first proposition was that "the legislature shall not create, renew, or continue by one law, more than one incorporation." This he thought, would be understood by every one; and, in his opinion, there was a majority in favor of that principle. If the amendment was couched in proper language, it would in all probability, meet the approval of the convention. The next clause of it was—

"Nor shall any one law create, renew, or continue a corporation, and contain any provision in relation to the altering of any other act of incorporation." Now, the object which he and some other gentlemen had in view would be defeated, unless this clause was adopted. If the amendment merely stated, as did that of the gentlemen from Lancaster, (Mr. Reigart) that no law shall contain more than one enactment, it could be evaded by renewing or enlarging the powers of an old incorporation. Suppose, for instance, that the United States Bank of Pennsylvania wished to increase her capital and power, this might be done by the same law, as the delegate proposed, and the object of the restriction he (Mr. C.) and others desired to see imposed on the legislature, would be defeated.

The amending of an old incorporation, would not be to insert two acts in one law. The next clause of his (Mr. C's.) amendment would prevent the evil of which he had just spoken

"Nor shall any one law contain any provision in relation to the altering of more than one act of incorporation."

And, the amendment ended with the following paragraph :

"And no incorporation shall possess banking or discounting privileges unless such privileges be granted by law enacted at two successive sessions of the legislature."

The last clause of the amendment, he did not care much about. If the convention thought three months' notice would be better than the action of two successive legislatures, he had no objection to modify his amendment. He had drawn it up so as to conform to the views of a number of gentlemen. He would not trouble the convention with any further explanation, as the amendment was easily understood. He had no hesitation in saying that he had been, at first, against making any alteration in the constitution, but, since, he had become satisfied that there were a large portion of the community in favor of some amendments being made, and he desired to pay some deference to their sentiments. He

had, therefore, offered his resolution, or amendment, as a compromise, and with a view to effect a mediation between gentlemen, and he would offer it the first opportunity that should offer. His amendment did not go quite so far as to insinuate fraud on the part of the legislature. He must say, that he did not exactly approve of the language of the gentleman's (Mr. M'Dowell's) amendment; nor did he like his accusing members of the legislature of being guilty of fraud and corruption. It might be well enough for old members to turn state's evidence, and implicate themselves and others; but, it was not quite decorous for a gentleman, who never was a member, to make so serious a charge.

Mr. M'DOWELL, of Bucks, explained that in speaking of frauds and corruptions practised by the legislature, in reference to the passing of acts of incorporation, he had connected his remarks with what had fallen from the delegate from the county of Philadelphia. He did not mean to make any accusation against any member or members. What he said was general; and that it was conceded there was corruption in the legislature.

Mr. DICKEY, of Beaver, said that if he understood the object of the gentleman from Lancaster, in introducing his amendment, it was to prevent hasty and inconsiderate legislation. There appeared to be much anxiety manifested, both by that delegate, and others, to accomplish the object they had in view. He would put it to that gentleman, and those on the same side, whether it would not be as well to apply the rule they would adopt, to this convention?

The delegate from Lancaster, (Mr. Reigart) had, this morning, offered an amendment to the first article, which was read and thrown on the desk of the secretary. Then, another gentleman, (Mr. Heister) proposed an amendment to that amendment; and next: the delegate from Mercer, (Mr. Cunningham) brought forward an amendment, which, when a proper opportunity should present itself, he said he would offer. All these amendments were in manuscript, and no time had been allowed to consider or deliberate upon them, although they were probably to become a part of the fundamental law of the land.

Mr. HEISTER said, that his amendment was submitted last month.

Mr. DICKEY, would ask the delegate if he had not modified his amendment since?

Mr. HEISTER: It is in substance the same.

Mr. DICKEY said, after adopting either one of the amendments, we shall be in the same situation in which we were the other day, when it became so doubtful, whether the amendment adopted would meet the object in view, that a re-consideration was resorted to. He wished to know, whether it was expected to urge the convention to act on these manuscript amendments without any consideration. Every attempt to put them over to their proper place in the 9th article has failed, and there seems to be an effort to force them on the convention at this time.

Now, sir, as to hasty legislation, which these amendments are intended to remedy, there may be such a thing. But during four years' service in the senate, I have often seen members write amendments at their desks, and offer them, but they were always refused, because they had not

undergone the revision of a committee, and because the senate had not time to examine them. Yet we propose to adopt amendments without examination, and embody them in our fundamental and organic law—amendments too, of which no one here knows the bearing and effect.

I do not know what was the amendment offered by the gentleman from Chester, the other day. I may or may not have caught the meaning of it at the time when it was read, but, at all events, I have now forgotten it. I do not know whether I understand this amendment, but if I do, it is one that will tend to hasty and irresponsible legislation. A divided responsibility, is no responsibility. Any one who wants to get a bank, can bore the legislature for it with the greater success, because, they can throw the responsibility of the measure, in a great degree, upon the succeeding legislature. When the borers come to the next legislature, they will be sure of success, because, they will have the argument that the preceding legislature sanctioned the incorporation. They can say to the second legislature, you will share no responsibility in the matter. It has been passed by the former legislature, and you, therefore, need not hesitate.

The proposition of the gentleman from Lancaster, (Mr. Heister) is similar to one which was embodied in the general banking law in 1824, and is a very good one. It provides indemnity for the incorporation, in case the charter should be repealed. As to the notice proposed, it is neither here nor there. In the state of New York, notice is required, and it opposes no obstacle to obtaining charters. Charters are there granted with the same facility as with us. On the whole, the proposition of the gentleman from Lancaster, rather enlarges than diminishes the privileges of banking incorporations, and secures their interests on a more permanent basis. Perhaps I may vote for it, after getting rid of the amendment offered previously.

The delegate from Chester says, there is a reservation of a repealing power in every bank charter granted by this state, except one. If he refers to the United States Bank of Pennsylvania, as it appears he did, he is mistaken in supposing that there is no reservation in that. If he will read the fifth section of that act, he will see that there is an express provision in the charter for its repeal, in case of its violation. A committee of the legislature may examine the concerns of the bank at any time, and, in the event of their refusing to give up their books and papers, they forfeit their charter. The alleged facts of abuse, are to be tried by a jury, and, if proved, the charter is to be forfeited.

I move to postpone the further consideration of the amendments, and of the report of the first article, with a view to print them.

Mr. FLEMING said, he should have supposed that the gentleman would commence his argument with a motion to postpone, instead of making his argument first. For my own part, I can see no necessity for a postponement, for there is no difficulty in understanding the amendments which any one may read at the secretary's desk. The gentleman says we are obliged to act on manuscript propositions, instant. Why, sir, this is no new matter. There is not a member on this floor who does not fully understand the subject. Why should we have them printed and laid

on our tables? We are just as well able to act fully, and understandingly on the subject now. Will this delay serve to save the time of the convention or lessen its expenses? What new lights are we to wait for on this subject? Have we not all the arguments before us for and against the proposition? We are told, also, that these propositions are out of place; but this argument has already been met and refuted.

We have appointed a committee, whose duty it is to arrange, under their proper heads, every provision which may be adopted. Every provision will, therefore, be ultimately put in its proper place, even if any should be wrongly placed now. It does not matter, therefore, when the vote on a proposition of this kind is taken. Do we gain any time? Do we gain any proper object by postponing a decision when the subject has been fully discussed and is fully understood?

Now, sir, I believe it is generally considered that the legislature, in this matter of granting charters, is generally too hasty, and, that in regard to all corporations which are chartered, there is a good deal of legislative finesse and log-rolling. There is a necessity for adopting some provision on the subject. The people expect it, and will not be content with our work without some provision in regard to it.

I am opposed to the postponement, because it will have the effect to prolong the labor of this body, and to defeat the object in view by delay. Every man's mind has been drawn to the subject, after the full discussion which we have had of it, and the convention is now ready to act upon it. Will we postpone a decision every day till the last day of the session, when it will be said that it is too late? If this course be taken, it is apparent that its object is to defeat every attempt to restrain the action of the legislature on the subject of corporations, and to deny to the people the right of making any reform in their state government. As we now have the subject fully before us, let us act upon it, and show the people that we are willing to protect them from the consequences of hasty and corrupt legislation. I hope the postponement will not prevail.

Mr. BELL rose, he said, to notice a remark of the gentleman from Beaver. That gentleman possessed an inexhaustible fund of moral courage, and it required all that he had, to address us on this subject, especially when he hazards the assertion, that the legislature of Pennsylvania had reserved to themselves the power of modifying or repealing the charter of the United States Bank. He would refer to a copy of the charter.

The PRESIDENT said, the question was on the motion to postpone.

Mr. BELL said, he was answering an argument on the motion to postpone. He would call the attention of the convention to the letter of the president of the bank, (Mr. Biddle) written on the subject of an amendment to the charter, then pending in the legislature, and which amendment reserved the power of repealing the charter. Mr. Biddle utterly repudiated a charter with such a provision, and his authority is one that the gentleman from Beaver dare not deny. Mr. Biddle refused to accept a charter containing a clause authorizing its repeal, when it should appear to the legislature to be injurious to the interests of the citizens. Accordingly, when the bill reached the senate, a motion was made to strike out this clause, and it was stricken out. All attempts to insert any provision

for the repeal of the charter were rejected. The gentleman must have forgotten this celebrated letter, which was published for the purpose of giving information to the whole union, and to the whole world, as to the position of the bank in regard to the state government. He would ask how the gentleman would answer this,—as he would call it—accusation?

Mr. DICKEY said, he had reason to recollect the fifth section of the charter, because he introduced it himself. He had it not now at hand, but he would have it, and read it, because this was a question of veracity between him and the gentleman from Chester, and was to be settled here.

Mr. EARLE, interfered and said, I intend to discuss this whole question myself, if others are permitted to do it.

Mr. DICKEY proceeded. The gentleman from Chester says, I must possess great courage to assert that the charter contains a provision for its repeal. I did not say that it did. But I say that the charter contains a provision, which forfeits its charter, in case that the bank should refuse to submit its books, papers and concerns, to an examination, by a committee of the legislature. I did not say that it contained a reservation for its repeal in the usual form. As to my moral courage, I hope that I have enough of it to do my duty here, and in the legislature, and there I did oppose the views of those who wished to disregard the wishes of the people.

I moved the postponement, with a view to read and understand the amendments, and to act understandingly upon them. It will not delay us, for our time can be employed upon another subject, till the amendments are printed. It is a common mode of proceeding to go on with another article, while we are waiting for the printing of amendments. If we are ever to adjourn, we must pursue some course of this kind, else these questions, so often urged upon us, will be continually springing up, and will not be settled in time to enable us to adjourn on the twenty-second February.

Mr. EARLE, asked the gentleman from Beaver to withdraw his motion, to postpone temporally, so as to afford him an opportunity, without being called to order, to reply to him on the main question.

Mr. DICKEY, I withdraw it now, but will renew it.

Mr. EARLE, had been anxious, he said, to express his views on this subject, and should do so as briefly as possible. His remarks upon it, heretofore, were cut off by the motion of the gentleman from Luzerne, for the previous question. In the first place, he said, he should take especial care to give no vote in this convention, for any proposition that would tend to establish, and perpetuate monopolies of any kind, under the delusive idea of getting something more favorable to equal privileges. Let us consider well, before we adopt any provision, in regard to banking and other monopolies, which were utterly repugnant to human rights, and to democratic principles, and we should be extremely cautious not to adopt a provision for granting a privilege to one portion of the commonwealth, and refuse it to another. Have we, who are friends of reform, not been talking for years, against exclusive privileges? Have we not urged argument after argument against monopolies, and all kinds and degrees of

monopolies? There is no difference in principle, between giving exclusive privileges to one monopoly and to another. Any one who goes for any exclusive privilege, has mistaken his principles as a democrat.

If banking be right, there can be no harm in allowing to every citizen the right to bank, without confining it to a favored few. There was no danger of too much being done at it, any more than there was danger of too much wheat being raised, or too many hats manufactured. The demand and supply will regulate all this matter; and the moment there is more paper than is needed, the demand for it will slacken, and it will be thrown back on the hands of those who issued it, and the specie demanded for it. This was not mere theory, but it was an experiment which had been tested, and which had been found to work well.

In Scotland, for fifty years past, every body that pleased established a bank. In this matter, he wished he could have the powerful aid of his colleague, (Mr. Ingersoll) for he understood that gentleman to be in favor of this Scottish system of banking, and he hoped that gentleman would get over his scruples about the rules, and favor the proposition which he should like to see inserted in the constitution.

We had heard a great deal here about bank aristocracy. Now, he was not himself in the habit of charging any party, or set of men, with being bank aristocrats, but since the subject had been so often alluded to by both parties in this body, he would take this occasion of saying, that your present banking system is founded on the very principles which created the aristocracies of Europe, and enabled them to grow up there. What was the origin of aristocracy in Europe. Why, they were granted exclusive privileges, and were exempted from paying the taxes which others were compelled to pay. This was the manner in which the nobility of Europe got a foot hold, and grew up.

Well, sir, how is it in this country? Have not our bankers, our bank aristocracy, as it is called, their exclusive privileges, and are not they exempt from those burdens, which the rest of the community have to bear? He was the friend of corporations, but he never would advocate a privileged class of corporations, by which one class of citizens were allowed to do that which their neighbors were deprived of. He was opposed to this, because, it would always result in undue profits to those who have the privilege, and, as a matter of course, must operate to the injury of those who have it not; and the moment you enable the few to grow rich at the expense of the many, you commit an outrage on republican principle, and establish that in our land, which has been so much deprecatd in other countries.

The gentleman from Susquehanna, in his very able speech, had said that banking gives those connected with it the opportunity of making undue profits out of the community. But why was this so? Why, simply, because, they enjoy an exclusive privilege. If banking was free, so that every man could go into it, the price of money would fall, and those immense profits which are now made by men engaged in that business, would be reduced. But the moment that you say that A, B, and C, only shall have this privilege, and they only shall have the privilege of regulating the price of money, why, they have a monopoly in their hands and make undue profits.

Again, in relation to combinations. While banking is confined to a few, they may combine for the purpose of making money scarce or plenty, or they may combine for the purpose of suspending specie payments, but the moment you open up the door to all, and permit every person to go into the business of banking, that moment you do away with all possibility of forming combinations, for the purpose of suspending specie payments, or for any other purpose whatever. In such case, if one suspended specie payments, his notes would be immediately discredited; because then, as now with a merchant, no one would take the notes of a man, who would not pay his debts. Now, however, when there are but a favored few engaged in banking, they have the power to suspend specie payments, and force their notes upon the public at the same time. If then, gentlemen wished to make banking more safe, better adapted to the country, and to break down all monopoly, let them go for some provision in the constitution, which will make banking more free, and give every one who desires, the opportunity of engaging in it. He had lately seen it asserted in a newspaper published at Washington, which discussed democratic principles with very great ability, and with which he generally agreed, that banks were anti-democratic, and that the democratic party were in favor of reducing their number. Now this doctrine he did not hold to in any particular. If banks were anti-democratic they ought to be abolished altogether. But they are not anti-democratic, and being so, it was right to allow any body to carry on the business, who chose to do so. The number of banks could not increase the amount of bank paper, because there would be no more issued than would be needed. He believed there was no more paper in circulation in the state of Rhode Island, with her sixty seven banks, than there was in the city of Philadelphia, with but fifteen or twenty. Where there were but few banks, they issued notes to twice or three times the amount of their capital, and where there were a great many banks, they never issued near as much as their capital. This was an argument too, in favor of the safety of the banks, where they were numerous. The fact is, that whenever banking is free, there is no undue advantage taken of the community.

In Scotland, under a free system of banking, they have gone on smoothly for fifty years, with but very little fluctuation in the currency, while in England, with a monopoly bank, and monopoly privileges, you hear constant complaints in relation to the currency. It was the want of competition in banking, that brought about all the evils attending our system, and to this he wished to call the especial attention of the gentleman from Susquehanna. Now, banking being a monopoly, the banks issue two or three times the amount of their capital, and consequently they frequently fail. If however, you open up the business to every one, this would not be the case. If banking was free, it would not increase the amount of paper, because that is regulated by the demand, and there is but a certain quantity wanted for the business of the country. Then the bank circulation would be divided among the banks, and no one would issue paper to the amount of its capital: it would be impossible for them to fail, because of having issued two or three times as much as their capital. This was the only safe way of regulating our banking system, and this doctrine is trying to gain ground in this country. We have seen that in New York, the democratic party have taken ground in

favor of free banking. We have seen too, that the governor of that state, in his last annual message, has recommended this system, and a measure in its favor has been considered in the legislature of that state. We have seen in other democratic states, this doctrine advanced, and it was his opinion it would be held to, and be beneficial to all. A law has passed in this state, of the general nature which he had alluded to, and he was only sorry that it did not go farther.

The law alluded to, was the law allowing persons to associate together under certain regulations, for the purpose of manufacturing iron with anthracite coal. We, also, have a law, by which literary and religious associations may be incorporated upon applying to the supreme court. Then he would ask gentlemen why not have all our banking institutions regulated by these general laws, instead of having them monopolies as they now are. But we were prevented from getting any salutary provision in this body, from its construction and action.

The amendment of the gentleman from Union offered the other day, and the amendment of the gentleman from Lancaster just referred to, were the kind of propositions which always came in to defeat reform, and they are never offered until we are just about getting a vote upon some important principle, and then they come in to defeat it. He, however, would never vote for such propositions as these, and deny that the people had the inherent right to repeal any charter that they pleased. He had no idea that a bank charter should be continued fifteen years without the people having the power to touch it in that time.

The amendment of the gentleman from Lancaster, in front of him (Mr. Hiester) contained the true principle, that the people might repeal a charter at any time, and he was happy here to testify to the manly spirit of that gentleman in coming forward at the present time with this proposition. Thomas Jefferson says that the average age of men is but nineteen years, therefore, if this was the case, he (Mr. E.) denied the power of the legislature to confer a privilege which would go down to a second age. This power to repeal charters was a power which was admitted by all men and by all parties. It is one of the reserved rights of the people, and democrats and whigs must admit it. The legislature of our own state has reserved the right to repeal bank charters, in express terms, in every instance, he believed, except that of the Bank of the United States, and this was a power reserved by the legislatures of both democratic and whig states throughout this Union.

The whig legislatures of Massachusetts have constantly reserved this right, and many other of the whig states hold to the same principles. The whig governor of the state of Ohio says, that it is dangerous to establish perpetual privileges, and recommends to the legislature always to reserve the right to repeal chartered privileges. Then it was necessary for us to adhere to this doctrine which had been admitted by all parties, and not deny that this right of repeal is a natural right, by refusing to assert the principle in our constitution. But it is held that this right to repeal charters was contrary to the constitution of the United States, and it is brought up here as an argument against it. Well, even admitting that it was contrary to the constitution of the United States to repeal charters already in existence, without a clause to that effect in their char-

ters, that does not say that we ought not to make provision in our constitution, that banks should not hereafter be chartered without reserving this right of repeal.

But he denied that it was contrary to the constitution of the United States, because he found, in a speech of Mr. Madison, in the Virginia convention that it was not the intention of the framers of the constitution, that that clause, in relation to the violation of contracts, should apply to chartered incorporations. He also found in a letter of Luther Martin's to the legislature of Maryland, that the clause alluded to in the constitution of the United States was intended by the framers of that constitution, to apply only to contracts between individuals. He also found, upon an examination of the proceedings of the convention that framed that constitution, that the clause in relation to impairing the obligation of contracts, was not a clause originally inserted by that body. They had it, originally, that no state shall pass an *ex post facto law*, but they afterwards appointed a committee, as we have done, to revise their provisions, and that committee added "or law impairing the obligation of contracts," as explanatory of the other. They were merely introduced, as explanatory of the former part of the section, and had nothing to do with charters, and it never was intended that it should protect bank charters, otherwise the people of the states never would have adopted it.

With regard to contracts being binding on posterity, you might go to every man in this Union, or every man of intelligence on the face of the globe, and you will not find one man in one thousand whose mind has been so far led astray, and who was so perverse as to believe that contracts were in all cases, or in any case binding upon posterity, because, if it is, it may be binding for a thousand years, or it may be binding in all time to come. No, sir, no one could subscribe to this doctrine. It was too absurd for any one to believe this, and those who hold this doctrine here, in outward appearance, do not believe it themselves. But, sir, these gentlemen, who hold so strenuously to the inviolability of charters and contracts, are so contradictory in their opinions and doctrine that it is very hard to reconcile them to any thing. They hold that the government has no right to violate its contracts, as they call them, with the banks, on any conditions whatever; yet, they hold, and argue on this floor, that the banks had a right to violate their contracts with the public, because the public good required it; and a captain of a steamboat, has been lauded on this floor, as a patriotic individual, because he made his boat travel too slow, in order to aid these banking institutions in violating their contracts to the public. If that was the fact, the captain of the steamboat was a conspirator with the banks, in enabling them the more effectually and extensively to violate their contracts.

The legislature of New Jersey, too, has been blamed here because it did not pass a law to excuse the banks in the violation of their contracts. Well sir, strange as it may seem, this doctrine was the very doctrine of those who hold that contracts are inviolable. Yes, sir, this was the doctrine of those who hold that contracts are inviolable, and those who held that contracts are inviolable were anxious that the governor of our own state, should call the legislature together, for the purpose of authorising the banks to violate their contracts, and were very much disappointed that the governor did not do this. And that legislature would have been con-

vened, if it had been certain that it would have been of the use that would have relieved the bank from their obligations; and, but was not of that description, it was not deemed advisable by the directors to convene it.

Well, sir, has not the course of the Bank of the United States justified by those gentlemen who hold to the inviolability of contracts? It is justified in its course by all its friends, and it is said by them that there was but one individual who was a creditor, that was dissatisfied. He knew that this was not the case, and he knew many who were satisfied. Suppose that nine-tenths of them were satisfied, did that justify him in violating its contracts with the other tenth, who were dissatisfied?

What was the course of that bank? Did it plead that it was bound to comply with its contracts? Not at all. The president of the bank, in his letter to J. Q. Adams, announces that if the bank had relied on its own strength, it would not have suspended specie payments; it suspended for the good of the community. Well, if a bank has a right to violate its contracts for the good of the community, would the people, if they had ever made a contract with these banks, would they be denied, have a right to violate it for the good of the people of the commonwealth?

Well, but we were told here that the bank suspended, in pursuance of the recommendation of a public meeting of the people. If there had been a meeting of a few in this city, or of one-tenth of the people in the commonwealth, recommending this, would it justify the bank in violating its contract with the other nine-tenths of the people? Most certainly would not, and especially so with the inviolability of contracts. What was this matter of the inviolability of contracts, and in what did it consist?

Do gentlemen pretend to say that a contract will descend from one generation to another, and bind the father and the son after him? Is there a person here who would hold that contracts descended to posterity? Will any man say that a contract made by the legislature of this State, this year, will bind the sons of the members of that legislature for ever, although in the mean time they may migrate to Canada or to Europe? Did any gentleman hold to such a doctrine as this? No one would pretend to support a doctrine of this kind, because, if it were true, did they might hold that we were bound by the contracts made by our fathers, because we happened to be his descendants.

Men can but make contracts to bind themselves, and they cannot make any which will bind their posterity. Mr. Locke, on this subject, says that

"Whatsoever engagements and promises any one has made for himself, he is under the obligation of them, but he cannot by any contract *whatsoever* bind his children or posterity; for his son, when he is *being* as free as the father, any act of the father can no more give him the liberty of the son, than it can, in any one else."

This is the doctrine of democracy and of common sense, which no man ought to stand to, but the amendment of the gentleman from New York (Mr. Reigart) was at war with this doctrine, and it held that con-

were binding on posterity. Then, according to the doctrine of the gentleman's amendment, the contract must be in the land, as it is not with the people. Then, if it was in the land those who have emigrated from Ireland, Scotland and Germany, are to be bound by it. Now he held that this doctrine was utterly repugnant to common sense, and was more untenable than the doctrine that a contract was binding from the father to the son.

The earth is free to all, and the present inhabitants have no right to encumber it or prevent their posterity from enjoying it as free as themselves. If we had the right to make a contract which would bind our posterity, we might bind them for a thousand years, and who would believe in a doctrine so absurd? Who would believe that contracts made by the Indians of this country one hundred years ago were binding upon us? Why, no one would believe it. Well, this was just as plausible as that contracts made by us should bind our posterity for fifty or a hundred years.

The doctrine was, that contracts were binding until their obligations were destroyed by revolution. Revolution destroys the obligation of contracts. Well what is revolution? A revolution is that movement on the part of the people, by which a form of government is changed. Revolution destroys the obligation of contracts, but there was no reason in saying this revolution must be a bloody revolution, and that this object can only be effected by a bloody revolution. It was admitted in this country, that the people had a right to change their form of government, and reform abuses. It was admitted that they had the right to remedy evils by revolution, but it could not be pretended by any show of reason, that that revolution must be a bloody one.

Suppose it be clearly shown that three-fourths of the people wish to throw off any particular abuse, as for instance the system of banking. Suppose three-fourths of the people wished to abolish any part of their system, was it necessary to have blood spilled to do it? The right of the three-fourths to govern, is admitted, and the right of revolution is admitted. Then should they not have the right to govern peaceably, or was it necessary that the three-fourths should shoot down the one-fourth, before they would have the right to make the change? Was it not just as well for the one-fourth to say that we know you have the majority, the right, and the power, to make the alteration, therefore, make it—we submit? Was not this just as good a way of settling the difficulty as the other? He could see no difference in principle, except that the peaceable revolution, was a thousand times better than the bloody one. He hoped that gentlemen would not contend that the three-fourths should put the one-fourth to death, before the object desired, could be effected. Now with regard to this matter of the contract being in the soil, he wished to show, that the land was only subject to the control of those who resided on it during their existence, and no longer: therefore, they could make no contract which would descend with the land to posterity.

He had said at Harrisburg, in some remarks he had made there, that the people had the right to dispose of the land in such manner as they thought proper, and as the public good required; and that, if the public good required an equal division of the land, it was the right of the people to

have it divided ; but he had there put in the qualification, that the public good did not require it, and in this he had been misapprehended by some gentlemen. The public good requires that portions of the land should be taken for public improvements, and it was taken. It also required that it should be taxed, for the purpose of educating the poor man's children, and it was so taxed.

He would here beg leave to read an extract from a manuscript letter of Thomas Jefferson, written a short time before his death, on this subject: The letter was dated September 24, 1823, and was to this effect.

“ That our Creator made the earth for the use of the living, and not of the dead ; that those who exist not, can have no use nor right in it, no authority or power over it ; that one generation of men cannot foreclose, or burthen its use to another, which comes to it in its own right, and by the same divine beneficence ; that a preceding generation cannot bind a succeeding one by its laws or contracts, these deriving their obligation from the will of the existing majority, and that majority being removed by death, another comes in its place, with a will equally free to make its own laws, and contracts ; these are axioms so self-evident, that no explanation can make them plainer, for he is not to be reasoned with, who says that non-existence can control existence, or that nothing can move something. They are also axioms pregnant with salutary consequences. The laws of civil society, indeed, for the encouragement of industry, give the property of the parent to his family on his death, and in most civilized countries, permit him even to give it by testament to whom he pleases. And it is also found more convenient to suffer the laws of our predecessors to stand on our implied assent, as if positively re-enacted, until the existing majority positively repeals them, but this does not lessen the right of that majority to repeal, whenever a change of circumstances, or, if it calls for it, habit alone, compounds civil practice with natural right.”

He also wished to call the attention of the convention to an opinion of Thomas Paine, in relation to the subject of chartered rights. It will be recollected that the gentleman from Northampton, (Mr. Porter) read largely from Paine's works, to show that charters must be held sacred, although the chartered companies may violate their contracts. This was a later publication of Paine's than the one quoted by the gentleman from Northampton, and was directly to the point ; it was a communication written in the year 1805, from Rochelle, in the state of New Jersey, on the subject of constitutional reform in Pennsylvania, and the extract he desired to call the attention of the convention to, was in the following words :

“ There is no article in the constitution of this state, nor of any of the states, that invests the government in whole, or in part, with the power of granting charters or monopolies of any kind ; the spirit of the times was then against all such speculations ; and, therefore, the assuming to grant them, is unconstitutional, and when obtained by bribery, and corruption, is criminal. It is also contrary to the intention and principle of annual elections. Legislators are elected annually, not only for the purpose of giving the people, in their elective character, the opportunity of

showing their approbation of those who have acted right, by re-electing them, and rejecting those who have done wrong; but also, for the purpose of correcting the wrong—where any wrong has been done—of a former legislature. But the very intention, essence, and principle of annual election would be destroyed, if any one legislature during the year of its authority, had the power to place any of its acts beyond the reach of succeeding legislatures; yet this is always attempted to be done in those acts of a legislature, called charters. Of what use is it to dismiss legislators for having done wrong, if the wrong is to continue on the authority of those who did it?"

This communication was signed "common sense," and this was the doctrine of democracy and of common sense. Of what use was it to turn out the representatives who had committed a wrong, if the wrong was to be continued. He also had the authority of Judge Blackstone, to the point to which he had been speaking, and he desired to introduce it, because he presumed it would be taken as good authority by gentlemen here.

Blackstone says, in the second page of the second volume :

"We think it enough that our title is derived by the grant of the former proprietor, by descent from our ancestors, or by the last will and testament of the dying owner; not caring to reflect that—accurately and strictly speaking—there is no foundation in nature, or in natural law, why a set of words upon parchment, should convey the dominion of land; why the son should have the right to exclude his fellow creatures from a determinate spot of ground, because his father had done so, before him; or why the occupier of a particular field, or of a jewel, when lying on his death bed, and no longer able to maintain possession, should be entitled to tell the rest of the world, which of them should enjoy it after him." * * "In the beginning of the world, we are told in holy writ, the all bountiful Creator, gave to man "dominion over all the earth; and over the fish of the sea, and over the fowls of the air, and over every thing that moveth upon the earth." This is the only true and solid foundation of man's dominion over external things, whatever airy, metaphysical notions may have been started by fanciful writers upon this subject. The earth, therefore, and all things therein, are the general property of mankind, exclusive of other beings, from the immediate gift of the Creator."

Again in page 9, he says :

"The instant a man ceases to be, he ceases to have any dominion; else if he had a right to dispose of his acquisitions one moment beyond his life, he would also have a right to direct their disposal for a million of ages after him; which would be highly absurd and inconvenient."

Again :

"The right of inheritance, or descent to the children, and relations of the deceased, seems to have been allowed much earlier than the right of devising by testament. We are apt to conceive, at first view, that it has nature on its side. Yet we often mistake for nature, what we find established by long and inveterate custom. It is certainly a wise and effectual,

but clearly a political establishment, since the permanent right of property, vested in the ancestor himself, was no *natural*, but merely a *civil* right."

Again :

" Wills and testaments, rights of inheritance, and successions, are all of them creatures of the civil or municipal laws, and accordingly, are in all respects regulated by them ; every distinct country, having distinct ceremonies and requisites, to make a testament completely valid ; neither does any thing vary more than the right of inheritance, under national establishments. In England particularly, this diversity is carried to such a length, as if it had been meant to point out the power of the laws in regulating the succession of property, and how futile every claim must be, that has not its foundation in the positive rules of the state."

Here we have this high authority to teach us that it is the positive rules of the state which regulate all these matters ; yet the amendment of the gentleman from Lancaster, (Mr. Reigart) goes to prevent us from exercising those natural rights which we always have possessed, and must possess, of repealing charters. He believed we now had the power to repeal charters, still he would vote to establish it in the constitution, so that there might be no doubt about it hereafter.

He should, therefore, vote for the amendment of the other gentleman from Lancaster, (Mr. Hiester) although it was not exactly the kind of amendment which he wanted, but he would strenuously oppose any thing which would go to prevent the passage of a general law to regulate banking. The kind of amendment which he should like to see adopted, was something like the following amendment :

" No bank shall be chartered or re-chartered, otherwise than under the provisions of general laws, which shall grant no exclusive privilege, but shall provide a mode by which banks and bankers may give adequate security for the payment of their notes, and by which such security may be authenticated for public information. And all such laws shall be subject to modification or repeal by the legislature."

I regret that the provision does not relate to all charters, as well as to bank charters, but hope that the amendment will be adopted.

Mr. CHANDLER, of the city of Philadelphia wished, he said, to make a few observations in reply to the gentleman from Lycoming (Mr. Fleming.) That gentleman referred to the wishes of the people on this subject, and to their groans and sighs under the present onerous monopolies. Few of their outcries and lamentations have reached my ears, and I do not believe that the suffering or the complaints have been very extensive.

The gentleman from Beaver has set forth so strongly and clearly the disadvantages of the double responsibility of two legislatures, that another word on that point is unnecessary. He shewed that the first legislature would feel no responsibility, and the second would, as a matter of course, follow the example of the first, and that thus, all responsibility would be avoided.

Another evil will grow out of the plan proposed. It is known that legislative bodies frequently postpone subjects of action, which are

unpleasant to them, till it is so late in the session, that they are necessarily left unacted upon from want of time, and are thrown upon the next legislature. Thus, will it be with the legislature, in regard to charters, should this amendment pass. The legislature will endeavor to escape all responsibility, by throwing it upon the next; and, in this way, few charters would ever be passed.

If the gentleman from the county, (Mr. Earle) with the aid of Thomas Paine and Thomas Jefferson, should succeed in establishing his principles, we might as well give up all manuscript parchments and deeds, for before the money is gone, which the father has received from the sale of his land, the son will want to sell again, and the parchment will be no security, for it is contrary to the gentleman's theory, to perpetuate any thing, or secure any thing, in the way of property. Every combination disapproved by law, is a monopoly. There is no man here who is so entire a monopolist, as the gentleman from the county himself. He monopolizes his own ideas, and no one else will deal in them, or contest with him the privilege of dealing in them. He is safe in the enjoyment of his own monopoly of theories. I am in favor of the motion to postpone, with a view to a further consideration of the amendment.

Mr. FORWARD wished to know, he said, whether the amendment offered by the gentleman from Lancaster, (Mr. Hiester) was intended to give the legislature the power to repeal a charter upon their own mere will, without assigning any reason therefor, upon the payment of an indemnity? He wished to know whether they were to be enabled to repeal a charter, without assigning any cause upon tendering an indemnity? Was it to be an arbitrary power? Was the bank to be allowed to recover its debts? Could the bank sue and be sued, as a corporation?

Mr. HIESTER said, in reply, his construction of the amendment was, that the legislature might annul charters, without giving special reasons therefor, but not without allowing reasonable and proper indemnity. His idea was that the banks, under this clause, could enforce the payment of a proper indemnity. If the words did not convey that idea, the provision could be so drawn as to do it.

Mr. FORWARD said that, in his opinion, the object in view was not secured by the amendment. It held out a proposition of indemnification, but left it to the arbitrary will of the legislature, whether to grant it or not. It conferred upon the legislature, a power entirely arbitrary. Again, the proposition was objectionable, because it gave no power to the banks to enforce the liabilities of individuals. The corporations were not allowed the power of enforcing the liabilities for which their money was given. Was the convention prepared to act on a proposition thus defective? Was it not apparent that it ought to be postponed? Ought it not to be postponed, in order that the friends of the proposition might go to work, and modify and perfect it.

Mr. BROWN, of the county of Philadelphia said, he should vote against the postponement, though he did not doubt that it would prevail. Yesterday, the gentleman from Beaver said that the subject had been fully discussed, and was perfectly well understood, and the gentlemen from Beaver and Allegheny called the previous question. Now, if the gentlemen were ready yesterday, why are they not to-day?

Mr. FORWARD said, he did not say there had been a full discussion. He wished the subject to lie over, and he did not wish to see the proposition become a part of the constitution.

Mr. DICKEY said, he moved the previous question yesterday, for the reason that he wished to get rid of the discussion and the subject, and he would vote for the previous question now, if any one would move it.

Mr. EARLE asked leave to reply, personally, to the remarks of the gentleman from Philadelphia, (Mr. Chandler.)

Leave was refused.

Mr. DORAN asked the yeas and nays on the question of postponement.

The question was then taken on the motion to postpone, and determined in the negative—yeas 60 ; nays 62 ; as follows :

YEAS—Messrs. Agnew, Baldwin, Barndollar, Barnitz, Biddle, Brown, of Lancaster, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clapp, Clarke, of Beaver, Clark, of Dauphin, Cleavinger, Coates, Cochran, Cope, Cox, Craig, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Dunlop, Forward, Harris, Hays, Henderson, of Dauphin, Hopkinson, Houpt, Jenks, Kerr, Konigsmacher, Long, Maclay, M'Call, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Penny-packer, Pollock, Porter, of Lancaster, Royer, Russell, Saeger, Scott, Seltzer, Serrill, Snively, Sturdevant, Thomas, Todd, Weidman, Young, Sergeant, *President*—60.

NAYS—Messrs. Banks, Barclay, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Clarke, of Indiana, Crain, Crawford, Cummin, Curll, Darrah, Dillinger, Donagan, Donnell, Doran, Earle, Fleming, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hastings, Hayhurst, Helfenstein, Hiester, High, Hyde, Ingersoll, Keim, Kennedy, Krebs, Lyons, Magee, Mann, Martin, M'Cahen, M'Dowell, Miller, Nevin, Overfield, Payne, Reigart, Read, Riter, Ritter, Scheetz, Sellers, Shellito, Smith, of Co'umbia, Smyth, of Centre, Sterigere, Stickel, Taggart, Weaver, White, Woodward—62.

On motion of Mr. KEIM,

The convention adjourned till half past three o'clock in the afternoon.

THURSDAY AFTERNOON, JANUARY 11, 1838.

The convention resumed the second reading of the report of the committee to whom was referred the first article of the constitution, as reported by the committee of the whole.

The amendment offered by Mr. **HIESTER**, to the amendment offered by Mr. **REIGART**, being under consideration,

Mr. **DENNY** moved a call of the house, which was agreed to,—and the call was, after a quorum was obtained, suspended.

Mr. **HIESTER** modified his amendment, by striking therefrom all preceding the word “nor,” and inserting, in lieu thereof, the following, viz :

“That the legislature shall not grant or renew any charter of incorporation, until after three months’ public notice of the application for the same shall have been given in such manner as shall be prescribed by law. Nor shall any corporation hereafter created, possessing banking, discounting, or loaning privileges, be continued for more than fifteen years, without renewal; and no such corporation shall be created, extended, or revived, whose charter may not be modified, altered or repealed, by the concurrent action of two successive legislatures, subject to an equitable and just indemnification.”

The amendment to the amendment, as modified, being under consideration,

Mr. **HOPKINSON** said, this question of banking incorporations, and the restrictions on them, had become a very exciting question here, and a very important one every where. It had occupied the attention of the convention for four or five weeks, and when it was considered how many shapes it had assumed, it was evident that it would consume all the remaining time of the convention, unless we could come to some compromise upon it.

It seems to be considered, if not by a majority, by many, that something ought to be done upon the subject. Many things have been said, by experienced men, which convince me that something ought to be done. I listen to the facts which are given by members, and pay no sort of attention to what they say about the will and the wishes of the people. They know nothing about the wishes of the people, beyond their own limited, personal intercourse, with their own neighbors. I know as much as any in regard to the wishes of the people, and I profess to know nothing. I yield nothing, therefore, to the will of the people, but every thing to the sense of experienced and wise men here. I have something will be done, to produce a joint, or nearly a joint, action of this body, upon the subject of the proposed restrictions. I know the opinion prevails that I am immovably fixed in favor of the old constitution, and that I will remove nothing there. This is a mistake. When the old constitution has, in my estimation, worked well, I will not change it.

up for the love of novelty, and the desire of change; but where the subject is new—where it could never have come within the contemplation of the framers of the old constitution—where the matter is new, and the ground new, I must treat the subject as new, and consent to such an alteration of the constitution as will meet the change in regard to the interests of the state.

The subject of banking is one that could not have been considered by the framers of the constitution of 1790. At that time there was only one bank in the United States—the Bank of North America, which was chartered during the revolutionary war; and the convention could not have anticipated the day, when banks would be as plenty as blackberries. No, sir; there were no facts from which they could have imagined such a state of things.

We want legislation on the subject, and such alterations of the fundamental law, as experience and new lights have given us.

It seemed to him that neither of the amendments proposed by the gentlemen from Lancaster, (Mr. Reigart and Mr. Hiester,) were exactly what was required to meet the evils which it was contemplated to remedy. He thought, however, that from both amendments something might be devised, which would meet the views of the convention, and the approval of the people of the state of Pennsylvania. In order to understand whether a remedy would meet the disease, it was necessary first, to ascertain what the disease was. Not having any legislative experience himself on the subject, he had listened with the greatest attention to what had fallen from gentlemen on this floor, and as far as he had been able to collect, the evils complained of were but two in number. When it should have been clearly and distinctly ascertained what they were, gentlemen would be enabled to speak understandingly, in reference to their removal. He understood the evils to relate to incorporations generally, but more especially to banking corporations. One complaint was, that there had been heretofore, hasty and inconsiderate legislation in regard to the granting of charters. And, the other evil, against which the convention was called upon to provide some remedy, was certainly one of a more serious character—he meant the practice which had been asserted over and over again, to prevail in the legislature, of getting bills through by tacking them together; or, what was familiarly known, here and out of doors, by the name of “log-rolling.” A remedy must be applied to these two evils—that was, to prevent hasty and rash legislation—to cut off a combination of interests—to prevent a repetition of what was done, in one instance, the chartering of thirty or forty banks, at one “fell swoop”—none of which would have been approved by the representatives of the people, if each bill had been acted on separately.

If the convention should provide a remedy for these evils, and if it should hereafter be found that no act of incorporation was passed, without the notice having first been given of an intention to apply for it, and that all interest to combine was at an end, then, it seemed to him, this body had accomplished all that was desired. Now, he would say two or three words with respect to the amendment of the gentleman on his right, (Mr. Hiester.) There was one feature of it which met his most cordial approbation, and which he could wish to see incorporated in the amendment of

his colleague, (Mr. Reigart.) What he referred to was that part of it which required notice to be given of an application for an act of incorporation. If the convention should agree to introduce a provision of this kind, and thus afford the people an opportunity of making known to the legislature their objections, (if they should have any) to granting such, and such acts of incorporation, it would have done all that could be desired.

But, as to the other features of the amendment, he confessed that he did not like them. He could not give his assent to the prohibition against granting any charter for a longer period than fifteen years. He considered there was injustice in it—that the contracting parties should be left free to have the power of deciding whether they would grant a charter for ten, fifteen, or more years. He maintained that by putting all incorporations on the same footing, great injustice might be done. He repeated that the legislature should be left free and untrammelled, and at liberty to act as circumstances and their own sound discretion would dictate.

There was another feature he did not like, because it struck at the root of justice. It would strike every man as being improper, (not to use a harsher term) on the very face of it. He referred to the proposition to repeal a charter, whenever the legislature might think proper to do so, they making indemnification to the party, or parties, that indemnification being fixed by the legislature themselves! He apprehended that there was no difference in the matter, whether applied to A and B or the commonwealth, on one side, and any citizen, on the other. The principle was the same. Would any man in this convention say, he would make a contract with his neighbor, and leave it to him to break up the arrangement between them, he making compensation, to be measured by himself? Why that would be manifestly unjust; and it was contrary to every principle of equity and reason. He felt assured that this body could not agree to adopt an amendment of this character. These were some of the objections that he had to urge against the amendment of the delegate from Lancaster, (Mr. Hiester.) With regard to the notice required before an application could be made for a charter, he (Mr. H.) would say that that was a principle of the amendment which met his approbation. He would now proceed to say a few words in relation to the amendment of the gentleman from Lancaster, (Mr. Reigart.) By that amendment, the delegate proposed that

“No corporate body shall be hereafter created, with banking, discounting, or loaning privileges, without the concurrent action of two successive legislatures; nor shall any law hereafter enacted, contain more than the enactment of one corporate body.”

He (Mr. Hopkinson) objected to that part of the amendment which required the enactment of two successive legislatures. His wish was, to substitute for it the notice to be given to the legislature, as set forth in the amendment to that amendment. He would also add to it the words that “no corporate body shall be hereafter created or renewed,” &c. He was for putting all the banks at present in existence on no better footing than those which might hereafter be created. Every thing should begin with the law as it now existed. There was another reason, and one which

in his opinion, was entitled to some weight, why the words he had suggested, should be inserted, and that was, they would perhaps prevent ambiguity and litigation. If the word "created" was all that was meant, it might give rise to a question before the courts, whether the then existing charters could not be renewed. It was a matter of the greatest consequence that the language of a constitution should be as clear and explicit as possible. He trusted that this convention would be as fortunate as that of 1790, in making the language of the constitution as accurate and unambiguous. Scarcely a doubt had arisen in reference to any thing in the constitution, although made nearly fifty years ago. Feeling desirous that the amendments should be equally correct and unexceptionable, he therefore hoped that the word "renewed" would be inserted after "created," then not only would all the banks be put on an equal footing, but disputes and litigation would be prevented hereafter. As he had already said, he was opposed to submitting the question of rechartering a bank, to two successive legislatures.

He was opposed to it because the effect would be to produce a most extraordinary state of things—a degree of uncertainty as to the renewal of a charter, which ought not to exist, and which was pregnant with the most injurious consequences. Take, for example, the case of a charter, which was about to expire, and an application being made to the legislature for a renewal of it, it was granted by the first. But, inasmuch as the same act must be submitted to another legislature, what, he would ask, was the situation of the bank in the meantime? Why, the very fact of the uncertainty, whether or not the second legislature would grant the prayer of the petitioners, was calculated to work great injury to their interests, if not to destroy them. The object to be effected by giving three months' notice, was to prevent hasty and undigested legislation—to take care that what was done, was after full and due deliberation. Among the reasons that had been given for requiring notice to be given of an intended application to the legislature for a charter, was, the rapid increase in the number of banks of late years. It had been said over and over again, that there were at the present time, about fifty in the state of Pennsylvania; that they made common cause, and that they formed one great and powerful interest by themselves. But to repeat the question, what, he desired to know, were the banks to do in the mean time, between the action of one legislature in their favor and the meeting of the next? Why, they would electioneer—they would naturally be inclined and doubtless would use all the influence they possessed to bear on the elections, so as to obtain a legislature of the character they could desire.

With all due difference and respect for the opinions of others, he conceived that infinitely more harm than good would result from the adoption of a clause of this kind. He thought that his friend on the left (Mr. Reigart) should substitute the notice to be given for "the concurrent action of two successive legislatures." He approved of the last clause of the gentleman's amendment.

"Nor shall any law hereafter enacted contain more than the enactment of one corporate body."

He (Mr. H.) regarded this as the most important of all the questions that had as yet been brought before the convention. It was one of expediency—one necessary to guard the public from the frauds which had

been practised upon them. He considered an act for a banking corporation as involving a solemn contract between the community on one side, and the corporators on the other. He looked upon an act of assembly, containing more than one law, as absurd and preposterous. Corporations that were separate and distinct in their character, and having no connexion with each other, ought not to be put together in the same act. These then, were briefly his reasons for desiring that the gentleman, (Mr. Reigart) would make the alteration he (Mr. H.) had suggested. He would vote for the amendment of the delegate, if he modified it in the manner he had stated.

Mr. DUNLAP, of Franklin, said, that he had been anxious to introduce an amendment to prevent crude and hasty legislation, which always took place towards the close of the session of the legislature. However well some gentlemen might think of the amendment of the gentleman from Lancaster, (Mr. Reigart) he could not give his vote for it, because it did not, in his humble opinion, cover the ground that was desired by the convention. He thought it did not seem to meet the views of gentlemen, as expressed some time ago. He had expressed himself freely and candidly on the subject, and he felt quite sure that the delegate would give him credit for sincerity, and take his remarks in the light in which they were intended.

He regarded the amendment as entirely erroneous in principle, and he would ask those gentlemen, who had come into this convention with an express and avowed determination, to ride rough shod over the institutions and best interests of the state, whether they were willing, after having expressed themselves in the manner they had done on various occasions, to accept such a small boon as this was? Would the amendment operate as a restriction on the legislature of Pennsylvania, in reference to the incorporation of banking institutions? Did it bear any resemblance to the proposition that was introduced into the convention, prior to the election in the third district, and which would sweep the Pennsylvania Bank of the United States, from off the face of the earth, as with a besom of destruction?

In his opinion, so far from the amendment being a restriction upon the legislature, in relation to the granting of bank charters—so far from its giving them power and authority to control the banking institutions of the commonwealth of Pennsylvania—its operation would be to deprive the legislature of the power they already possessed, to restrict them. He gave gentlemen full credit for candor and honesty, in the expression of their sentiments, and he trusted they would accord to him equal justice, when he declared, as he now did, that he had uttered nothing but what he really thought and felt.

Now, he would inquire of gentlemen, whether they believed that this amendment, if adopted, would have the effect of curbing or restricting the legislature? He could not perceive that the amendment offered by the gentleman from Lancaster, contained the restriction which some delegates seemed to suppose it did. He would be glad if any one would point it out to him.

The legislature already possessed the power of modifying and repealing charters. They could do that whenever there happened to be a majority in favor of adopting such a step.

What, he asked, was the character of the amendment offered for the consideration of this body? He propounded the question to those who came here full of the spirit of reform, and animated by the most anxious desire to destroy those acts of incorporation already granted. What was it but a restriction upon the exercise of the power they now had? It amounted to nothing else than that.

If the amendment should be agreed to, what would be the consequence? Why the legislature could not modify, alter, or repeal any charter that was granted, unless by a vote of two-thirds. He was about to say that it laid a restriction on the legislature not to take away charters. It, however, required the action of two successive legislatures. He would call on gentlemen to turn their attention closely to this subject, and ask them whether, if the convention should adopt the amendment, they would not deprive the legislature of the powers they already possessed? And with what complacency would they not go back—he meant no reflection—to their constituents, after having achieved a glorious victory?

He would ask whether the gentleman's constituents would not say—"We thought you were going to impose restrictions on the legislature, in reference to the granting of charters; but, instead of that, you are taking away even the power they possessed under the constitution of 1790." Was it possible! Why, was this what the reformers desired? Gentlemen came to this convention with professions of reform, and raised the cry all over the commonwealth, and after all, this was the poor, miserable substitute they would adopt! They who came here with their third district letter, and their Dallas letter, with which they were going to overturn and prostrate the institutions of the country!

Are your constituents reformers? Are you to go home and raise the cry of victory, and be cheered and toasted for having come to this low and impotent conclusion? I call on the reformers of the third district, to say if this is all that they wish to carry home. What will your constituents say if you make a boast of this trifling victory? Does not every man know that the legislature, if they please, can put a clause of repeal into every act of incorporation? And are we now going to take away that power from them, and say, that it shall require two-thirds of two legislatures to do this?

Are gentlemen willing to take home this miserable thing, and proclaim it as a triumph? They will hardly get home, before they will be ready to moisten the earth with their tears of regret. They will not be able to show their faces in the bar-room of any tavern. Where is there a man in the state who has suffered by any of these corporations? He challenged any one to produce an instance, in which any individual had been wronged, or had suffered in his estate or interests through the banks? I dare any of the opponents of corporations to say of what injury they have been to the country. What evil has sprung from them? It was said by those from whom the cry against corporations arose, that corporations are too numerous. I do not see that this is the fact. They are not too numerous for the wants and the convenience of those who ask for them. It was but the other day that the local banks were the subject of high eulogium, from the party which is now so hostile to them. We had it,

but a few months ago, from Messrs. Woodbury and Taney, that they were the very dandy—that they would give us a better currency than we ever had before—and that they would make gold and silver so plentiful, that it would flow up instead of down the Mississippi. But, now we are told that the history of the world has exhibited nothing like the perfidy of these institutions.

If these institutions were valuable yesterday, they are equally so to-day. Gentlemen may say that they must do something, but I warn them against sacrificing too much to a little temporary popularity. The gentleman near me was not mistaken, in supposing that the people wanted no reform on this subject. I read one of the petitions for reform the other day, and the whole burden of it was, a cry against the power and patronage of the executive. What does it all come down to? What does the whole of this great project of reform end in? In a proposition to prevent the legislature from repealing charters. Did gentlemen find this in the petitions? Where, then, did they find it? Does the gentleman from Lancaster believe that the people of that county desire this provision? I doubt whether it will meet the approbation of one county, and I am free to say, that in my opinion, it will give offence to the people of Pennsylvania.

When the commerce of the country is in a state of suspense, and awaiting with the anxiety of life and death, the course of things in regard to the currency, why does this convention attempt to throw out this fire brand? There was hardly any one act which the convention could do, that would be more bruited through the country.

We have to-day, in the Globe, the interrogatories of the member from Susquehanna, (Mr. Read) put to the President of the convention, as if they expressed the feelings and opinions of the people of Pennsylvania. When the whole business community is waiting with anxiety for some relief, does it become us to pass such a provision as this? The amendment provides for three months' notice of an intention to apply for an act of incorporation? Of what benefit will this be? Can any man say, that it will be of any advantage? I know of no one who thinks it will be beneficial; and, therefore, I shall not state any objections to it.

Does not every one know, that to pass the amendment at this particular juncture, will affect the price of stock and of every description of property?

The effect of such a decision, from this body, upon trade, cannot be appreciated by any but gentlemen who are acquainted with business. I ask, in kindness, of the gentleman from Lancaster, (Mr. Hiester) whether he desires to put before the people, a paper objectionable in so many points of view? A clause on such a subject, ought to be drawn with the greatest precision, and with the aid of most able and experienced men. The amendment as presented to us, is too loose and vague.

Why shall we say that corporations shall exist for fifteen years, when we give the power to the legislature to destroy them, at any moment they please, without assigning any cause for doing so? Where was the necessity of limiting them when they might as well have no limitation. The amendment goes on to say that no such corporation, shall be created or extended, whose charter may not be modified, altered or repealed by the

concurrent action of two successive legislatures. Now he would ask, why insert the words "concurrent action?" If it might be repealed by two successive legislatures, why say by the concurrent action of two successive legislatures? Why use more terms than were necessary to express one's meaning. Well, the amendment further reads, "subject to equitable and just indemnification." What could this mean? Why, he did not know unless it was that the legislature was to make full, just, and equitable indemnity to those institutions whose charters had been repealed by them. Then if this was what was meant why not say so in plain terms. Well then, he would appeal to any man to say whether it would be just and equitable to permit that body which had violated its contract to make the just and equitable compensation, which the institution should receive? Was it right that one party should have this power and the other party should have no appeal from it, no matter how unjustly it might be exercised? This could not be in accordance with the notions of justice and equity of any gentleman on this floor. How could it be that any moral man, guided by the principles of justice and equity, should agree that one party to a contract, after violating that contract, should have the power of settling the compensation which the other party ought to receive?

Here, sir, is the legislature which holds out inducements to capitalists to invest their money in a business for fifteen years, on the presumption that they will have the benefit to be derived from that capital during the time set forth in the charter. They make their subscriptions, pay in their money, and go on with their business for three or four years, and just when they get fairly started, in comes this body that granted them their charter, and says they must yield it up, without fault and without cause, and then this party that thus violates its contract, is to fix the just and equitable compensation!

Was this the doctrine of gentlemen? Was it their intention that the party who broke a contract was the party which was to fix the equitable compensation? If so, he thought it a very untenable doctrine, because a party that was dishonest enough to break a contract, would not be honest enough, in his opinion, to make equitable and just compensation.

Now, he understood the gentleman from Luzerne, the other day, to say that the legislature had and ought to have this power to break contracts at pleasure, but that they would not do it if they had it.

Mr. WOODWARD said he held that it was in our system that the legislature had no power to grant a charter which the legislature could not repeal, and if they did exercise the power of repeal, it would only be in accordance with the spirit of our system.

Mr. DUNLOP did not think it would make much difference whether honest men had the power to break their contracts or not, because if they were honest men they would not do it. If the legislature had the power now to break contracts, why insert a clause in the constitution in relation to it? No honest man either would say that the legislature ought to have this power, and if it had, they would say that it ought not to exercise it. No honest man would break his contracts, neither would any honest man desire to see the legislature of his state break their contracts. If the legislature were to say to a wealthy individual, that if he would subscribe a hundred thousand dollars to make a certain improvement that he should have all the tolls arising from it for twenty years, what honest

man would desire to see that enactment repealed at the end of three or four years, if the individual had complied with his part of the contract? In relation to the matter of contract, he would ask what more solemn contract could be entered into than that which was made by the great body of the people, pledging their own and the public faith for the fulfilment of all the parts of the agreement. Then what kind of justice, what kind of morality, or what kind of christianity, could that man be possessed of, who would desire the legislature to have the power and ability to do that which no moral principle would justify them in doing? He would therefore say to the reformers of this convention, you are doing your country no good; you are doing yourselves no good, and you are not in the least raising your character, your reputation, your patriotism, or your intelligence, but you are sinking yourselves and this commonwealth in the public estimation, and you are prostrating and destroying all prospects of doing a business, at the opening of your spring trade, by sustaining this amendment. He feared by the course we were pursuing, that our republic would go the way of every republic which had shown its head, from the days of Aristotle down. He begged gentlemen to recollect that we were yet but a young government, and that we are just emerging from our cradle. He begged them to recollect that a republic, worse constructed than ours, had existed for six hundred years, by adhering strictly to its original system—he alluded to the government of Sparta, founded by Lycurgus—and he only prayed God that our republic might last that long.

Mr. MARTIN had been long examining into this subject, and he had made up his mind to vote for the amendment; and, if that cannot be had, he would vote for the amendment offered by the gentleman from Bucks. He should vote for this amendment because he believed some little good would be done by it, but he must say that he entirely disregarded the appeal which the gentleman who had just taken his seat had made to the convention. It may be asked of us why we now vote for this mild proposition, after holding out for the high measures which we have heretofore advocated? If so the answer is ready, and it is because we can get nothing better. The responsibility of failing to get stronger measures will not rest with the minority of the convention. The reason why we could not get more operative measures is well known to the people of Pennsylvania, and with them the responsibility will be placed to the proper party. The evil of the banking system has been made apparent to every individual in this state. It had been apparent to him and to those with whom he acted, and repeated efforts had been made to remedy it, but every attempt was voted down by the majority of the convention, so that the minority were able to do nothing on the subject. This was sufficient to show that no fault rested with the minority. If a fearful responsibility is to rest with those who defeated those repeated attempts to correct bank abuses, it must rest with the proper person, and could not be attributed to those with whom he acted. We have been told by the gentleman from Franklin, (Mr. Dunlop) that nothing is wrong with regard to these institutions, and that no restrictions are necessary, and it has been over and over again asserted by gentlemen on this floor, that the banking system was as perfect as it could be.

Mr. M., however, looked upon these assertions as being made without

examination and without evidence, because it had been repeatedly shown that there were existing defects in the system, and it could still be shown that there were insufferable defects existing. Gentlemen have said there was now a remedy for all the existing evils. He would, however, ask them where was the remedy when the old bank directors of the Bank of the Northern Liberties entered into speculations and sunk a large proportion of the capital of the bank, thereby defrauding the widows and the orphans who were stockholders in that institution. Where were the sympathies of gentlemen for widows and orphans here; and where was the remedy by which these people could be redressed? There was none—and they had to suffer the loss, while those who had the management of the funds of this bank, were rioting on their losses. This was one evidence of the restraints upon bank managers which now existed. Again, what was the remedy when the directors of the old Bank of Bucks county, not only distributed the capital of the bank among themselves, but absolutely issued spurious notes and cheated the people of Philadelphia and the people of their own vicinity with this base issue? What remedy was there to prevent a proceeding of this kind? If there was any, then let the gentleman from Bucks county show us what it was.

Mr. M'DOWELL said he was entirely ignorant of the transactions alluded to by the gentleman from the county of Philadelphia.

Mr. MARTIN alluded to the old Bank of Bucks county, situated at Honesdale, the name of whose president he believed was Hone. And after the directors of the bank had squandered the funds of the institution by private speculations and otherwise, the president issued spurious notes, having the appearance of being the notes of the bank, when in fact they were but individual notes, and by this means the public was most shamefully defrauded, and there was no remedy to meet the case. Mr. M. felt for the position in which the reformers in the convention were placed, and he felt for it from the commencement; because he felt that it would be impossible to get such restrictions placed in the constitution as would entirely do away with the evils which had been complained of, but still this would not prevent him from taking something. If he could not get what he wanted, he would take what he could get, and he hoped the majority of the convention would act upon this principle. There was something in the amendment which would have a salutary effect, and he would take that something rather than nothing.

Those gentlemen who were opposed to bank restrictions, had called on the reformers of the convention to show some of the abuses of banks and bank directors, and when this had been done, these gentlemen come forward and say that the conduct of these banks and bank directors had been the best that could be expected. In his opinion, however, it was not; and he doubted not but there were in many cases great abuses and corruption with regard to the conduct of those connected with these banking institutions. He would now beg leave to read a paragraph from a report made to the legislature of the state, to show what the conduct of some of the officers of the Bank of Pennsylvania had been. [Mr. M. then read an extract from a report made by the committee of the legislature, in which George Clay, a clerk in that bank, had testified that the private account of the cashier of that bank, from August to the end of the year, amounted to five hundred thousand dollars.] Was this not evidence that

some restrictions should be placed on these institutions? Who can doubt but that this vast sum of money was used for shaving the people, and receiving more upon it than lawful interest? Every man must see that there was an impropriety in transactions of this kind, yet such transactions, he doubted not, were very common, as there was no existing remedy to meet such cases. Let us then have some remedy which will, to some extent, meet such cases, and with this view he voted for this proposition. He did not vote for it because he considered it the best which might be brought forward, but because he believed it to be the best which we could get, as we can get nothing but what the majority choose to give us.

Mr. FULLER had hoped that the convention, after the very considerable length of time which had been spent in discussing the subject, would have come to some conclusion, and would have imposed some restrictions on the legislature, in the granting of acts of incorporation. He believed that a majority of the convention were in favor of some restrictions, and he had hoped that before the convention adjourned to-night, some proposition to this effect would have been adopted; but if this disposition of throwing new amendments before the body every few minutes should continue, all attempts at coming to a decision, must prove abortive.

There had been two propositions brought before the convention, either of which, with some slight modification, would answer a salutary purpose. With regard to the amendment of the gentleman from Lancaster, (Mr. Hiester,) he considered it such a one as the body ought to look upon favorably. In fact, if that gentleman would so modify it as to say "no corporation hereafter created, *or renewed*," he thought it would be all that the convention ought now to ask for, or expect to get, and he trusted the gentleman would so modify it. It was, to be sure, not all that he would like to get, nor did he believe that it was all which the people looked for, but still, considering the circumstances which surrounded them, he was willing to take this, and hoped the convention would adopt it, if this modification was made. In fact, he believed if the proposition was modified in this way, that a majority of this body was ready to adopt it, notwithstanding the declarations of the gentleman from Franklin, (Mr. Dunlop) and the appeals which he had made to the feelings of partisans. That gentleman appears to deprecate the idea that the reform party, which had called for so much, should now be catching at so little. That gentleman, however, must be aware that the reform party in this convention, are in a minority, and cannot obtain such restrictions as they would desire to see adopted; but when propositions, proposing restrictions, come from the opposite party, it is the duty of the reform party to accept of them, and take such measures of reform as they see proper to give. It was the duty of the reform party of the convention, to meet, in a spirit of compromise, such members of the conservative party, as chose to meet them, on middle ground, and to obtain for the people all that they can. This the reform party had done on this occasion, and now that we are likely to come to some conclusion, some gentlemen are attempting to raise the alarm to drive reformers from accepting this proposition.

Mr. F., however, wished now to tell the reform party of the convention, that, if they wished to obtain any restrictions upon corporate powers, now was the time to get them. If they let this opportunity slip, he doubted whether they would ever have such another during the sitting of the conven-

tion He trusted the gentleman from Lancaster would modify his amendment, as he had suggested, and then he hoped the reformers would hang to it as their only hope now.

This sir, is the time to get a restriction. I hope the amendment will be so modified as to meet with general acceptance. The word "renewed" ought to be inserted, so as to provide that all applications for a renewal of a bank charter should come under the same provision as an original application. I believe that, thus amended, the provision will be a wise and efficient one, and one that will meet the approbation of this body, and of the public. The objection to the provision is rested chiefly upon that part of it which requires the assent of two successive legislatures to an act of incorporation, and it is urged that the first legislature will feel little responsibility in granting a charter, because it is to undergo the revision of a second legislature. The first legislature, it is said, will excuse themselves from a due degree of cautious investigation into the matter, and shift the responsibility from their shoulders to those of the next legislature, and the next legislature, when the charter comes before them for their approval, will content themselves with the fact that it has undergone the examination of a former legislature. So it is urged that there will be no responsibility at all. But this is contrary to our experience on the subject of legislation. It is just as difficult to get a bill through one house, after it has passed the other, as it is to get an original bill through, and so it will be found in regard to a charter passed by one legislature. It will be the means of exciting more vigilance, and awakening more opposition to the measure. I think it is, by this time, admitted on all sides, that there should be an increase of responsibility in reference to the granting of charters. It is admitted that they are now obtained with too great facility. I am in favor of extending the application of the amendment to all charters. I think, too, that the provision requiring that the title of an act should distinctly announce its subject and character, should be extended to all acts of legislation.

If the gentleman should not accept a modification making that provision, I will at some other time make an attempt to introduce that provision. The first part of the proposition of the gentleman from Lancaster, (Mr. Hiester) I think very good. The principle of limiting the duration of a charter to fifteen years, is a very proper one. Fifteen years is enough, in all conscience, for the term of any incorporation. If it works well for fifteen years, there can be no doubt that the legislature will renew it, and if not, it ought to expire. Those corporations who contend for a longer term than fifteen years, must have great doubts whether their institution is one that will contribute to the public welfare; for if it should be found to be conducive to the public benefit, there can be no doubt that the people of the commonwealth, through their representatives, will renew it.

Mr. BIDDLE did not rise, he said, to discuss this question, which had been already so much debated, but to reply to the charge made by the gentleman from the county, (Mr. Martin) against his fellow citizens, the directors of the Bank of the Northern Liberties. I know them well, and I know that they are men belonging to both political parties, and of reputable character, and most exemplary conduct. It is true that one of the officers of the bank proved unfaithful to his trust, and was dismissed from it. The stockholders sustained a loss through his default; but there was

no mismanagement on the part of the directors. The bank had gone on since with a reduced capital to carry on its business. I can bear testimony to the individual worth of the directors of that bank.

Mr. DICKKY said, charges had been made against a gentleman, who was a long time an officer in the Bank of Pennsylvania. The report of the committee of the legislature, made in 1829, under a resolution of the house of representatives, directing an inquiry into the conduct of the Bank of Pennsylvania, had been referred to. I do not pretend to justify what was done by every one in that bank. But, I was one of the committee of investigation, and after four weeks' laborious investigation, and after examining the testimony of all persons brought forward by the enemies of the bank, the committee made a report, and a democratic legislature of Pennsylvania, rechartered the bank with greater privileges than it ever had before.

The gentleman had not read a portion of the testimony given before the committee. Taking all the testimony together, it appeared that the charge against the cashier of the bank (E. Chauncey) was not true. He was not surprised at the allegation of the gentleman, that the cashier kept an account of half a million of dollars, in the Bank of Pennsylvania. Admitting it to be true, did it shew that the bank was managed corruptly? Who does not know that Mr. Chauncey had an immense amount of money besides his own to keep, and use for others; and, because he kept an account in the bank, why should he be charged with fraud? I say again, that after four weeks' patient and thorough investigation, the bank, and every officer connected with it, came out clear, and was rechartered by a legislature, composed of the very best democrats in the country, and rechartered too, with greater privileges than it had before. Among these democrats were many who are well known here to belong to the true faith now and then, and I was at that time a democrat myself, and a good one too.

All of us were, at the time, as good democrats as any here, and some of us are so still. Some of them are now not only democrats, but loco focos. The report shewed that the bank was generally conducted with ability and fairness, and we rechartered it with greater powers than ever.

Mr. MARTIN said, the gentleman tells you that the report of the committee cleared the bank, and the officers of the bank; but, he has forgotten that the committee came to the conclusion, which he would read, as follows:

"The committee believe that E. Chauncey violated the charter of the bank, in dealing in stocks and public funds," &c.

Now, sir, the charges I made, were sworn to by individuals, as responsible as any in the city of Philadelphia.

[Mr. M. here read some passages from the report.]

My object, sir, is to shew that an officer of the bank was using half a million of dollars, belonging to the funds of the bank, and to the commonwealth of Pennsylvania.

Yes, sir, the cashier of the Bank of Pennsylvania, three-fifths of the capital stock of which, belongs to the state, monopolized and used half a

million of the funds of the bank, for his own private purposes, to the exclusion of all applications for money wanted in regular business. Not a merchant could be accommodated at this bank. If we look over the testimony, we shall see what this half million of dollars was used for. It appeared that it was used in very heavy stock operations.

Mr. M. proceeded to read some passages of the evidence, in the report of the committee of the legislature ; when

Mr. DICKEY called the gentleman to order.

The CHAIR decided that the gentleman from the county was not in order, having wandered from the question.

Mr. WOODWARD said, he had come to the conclusion to vote for the amendment of the gentleman from Lancaster, (Mr. Hiester) and he wished to say a few words upon the subject, as much by way of explanation as any thing. One of the best features of the amendment, was that which subjected all charters to the alteration or repeal of the legislature. This provision, by which the power of repealing all charters is reserved to the legislature, is approved by several gentlemen who have expressed the opinion, that bank charters cannot be repealed, without a breach of moral obligation, and that all those who are, under any circumstances, in favor of such a repeal, are unworthy of the confidence of any portion of the community.

Even in the opinion of the learned judge himself, there is nothing improper in the proposed reservation, which constitutes one party the judge of the breach of the contract, and is there any thing immoral in making the legislature the sole judge of the propriety of repealing the contract ?

If this convention say, that the power to repeal charters shall be reserved to the legislature, I ask the casuists of this body, to tell me how good morals and public faith are violated, when the legislature, without such reservation, undertakes to repeal a charter ? All I ask is to be shewn this, because if gentlemen can shew me that the proposition is wrong, I will oppose it. Is there a breach of morality in repealing a violated contract ? All contracts must contain essentially this limitation and restriction.

Mr. DUNLOP : If the reservation is in the charter, it enters into the contract.

Mr. WOODWARD had, he said, understood the argument of the learned judge differently.

Mr. HOPKINSON said, he had argued that it was unjust and unreasonable to impose such conditions, as the amendment proposed, upon a party coming to the legislature for a charter.

Mr. WOODWARD : Then let the party keep away from the legislature. In heaven's name, let them not ask for what they don't like. As to the immorality of revoking a charter, in which there was no clause of reservation, he had a few more words to say.

The gentleman from Franklin (Mr. Dunlop) had misapprehended his views on this subject. The temper of this body prevented him from

explaining himself, or the gentleman's temper prevented him from understanding his explanation. Every charter, sir, does contain in itself a limitation, just as plain and as obligatory, as if it was in the fundamental law, and thence transferred to every charter.

That, sir, is the principle for which I contend, and, if it is immoral to revoke a charter without a reservation, it is equally so to revoke one that contains an express reservation. The reservation is a necessary and essential part of every charter, whether express or implied. I say that the legislature of Pennsylvania cannot part with unrestricted power, even by express words. A clause rendering a charter irrevocable is a nullity. The power of revoking grants, made under charters, is a power—is one of the reserved rights of the people, over which the legislature have no power at all.

When gentlemen likened this grant of power to deeds, conveying and recovering real property to individuals, they made a great mistake. All holders of lands, hold them subject to the same condition, and every day's experience shews, that private rights in landed property must be given up, and are taken by order of the legislature, for the public benefit. The banks hold their rights under the same restrictions, and upon the same conditions upon which all property is held. That condition, under which all contracts are repealable, violates no private right.

The right to repeal a charter in pursuance of an implied condition, imposed the correspondent duty of making compensation. And, yet the gentleman (Mr. Dunlop) had pronounced such a course of proceeding immoral! The delegate had read him a lecture on morality. Now, he (Mr. W.) professed to have as much respect, at least, for morality and religion, as his friend from Franklin, and he entertained the opinion that there was no breach of morality committed in the provision he could wish to see inserted in the constitution of Pennsylvania. He thought the opinions he had expressed were quite rational, whatever the gentleman from Northampton (Mr. Porter) might think, and who had declared that he (Mr. W.) would regret the expression of those opinions when he grew older. He would not renounce them, until much stronger evidence than he had heard, was adduced to convince him that he was in error. He would tell the gentleman, too, that it was not by abuse, and not from the fear of a sneering world, or a sneering cyrie, that opinions deliberately formed, were to be given up. That was not the way for one man to convince another. While on the subject—and he had risen rather for the purpose of explaining than arguing it—he would make a few observations in regard to what fell from the delegate from the county of Franklin. That gentleman called upon him (Mr. W.) to point out where the public sentiment was in favor of a provision of this kind, as he had not been able to perceive it.

He begged to refer the delegate to the proceedings of a meeting of his (Mr. W's.) constituents. The presiding officer was known to the President of this body; and he (Mr. Woodward) would submit to every member acquainted with those who took part in the proceedings, whether they were not entitled to the character of being men of morality and candor, and whether, also, their opinions were not entitled to the highest respect. Let delegates listen to what the meeting resolved:

"Resolved, That we still adhere to our opposition to the United States Bank, and believe that it was chartered through fraud, and the people have, through their representatives, a perfect and constitutional right to rescind its charter."

They even go further and say—

"Resolved, That the system of granting corporate privileges, heretofore pursued by the legislature, is productive of much injury to private and individual enterprise, and that such a course, unless unavoidable circumstances render it necessary, is deserving of public censure."

The committee, in their preamble, say :

"Under the auspices of the state administration, bills increasing banking capital to an extent hitherto without a parallel, have been the engrossing object of the party in power. Corporations, conferring privileges for a long tenure of years, have crept on the statute book, in the place of the more wholesome and salutary subjects of legislation. Bribes, under the familiar disguise of bonuses, have been the price of parliamentary action; and, in short, the whole aim and all-engrossing object of the administration, and its followers has been, not how the people could be best served—but how their political friends could be the most effectually advanced, regardless of the price or the consequences. These evils demand a thorough and energetic reform. The banking system, heretofore restrained by the democracy of the state, has now become the arbitrary dispenser of the terms on which legislation may be purchased. The chain of their influence, link by link, is fast gathering round the liberties of the people, and if the strong hand of power does not avert the calamity threatened, republicanism and liberty are but an empty sound, "signifying nothing."

Another of the resolutions of the committee, is :

"Resolved, That we are in favor of judicious reform—particularly the abolishment of life tenures in office—the abridgment of the executive patronage—the restriction of corporate privileges—and a more general extension of the rights of suffrage—that the democratic delegates from this county in convention, be requested to urge the adoption of these measures, and they will more forcibly add to the obligation we already owe them."

Mr. DUNLOP explained. He expressed his regret that the gentleman from Luzerne (Mr. Woodward) should have misapprehended what he had said. He had not used the language attributed to him : his argument was that there was nothing before the people, either in their petitions, or the proceedings of public meetings, that went to indicate a wish that further restrictions should be imposed on the legislature, in relation to bank charters.

Mr. WOODWARD continued. However ultra his opinions might be considered, there were gentlemen on this floor, who entertained some equally as ultra. And, although it might do for gentlemen of a certain party to claim all the talent, all the decency, and now all the morality, yet it was consoling to know that he (Mr. W.) was fully supported in what he had said, by his independent and unpurchasable constituents. He maintained

that notwithstanding all that had been said or intimated to the contrary, there was some morality among those who thought the right to repeal charters should be reserved.

He would now speak of the amendment of the delegate from the county of Lancaster, (Mr. Hiestor) which prohibited the repeal of a charter, except by the concurrent action of two successive legislatures. He (Mr. W.) could have desired that the delegate had modified his amendment, so as to require but one legislature to repeal an act, because, then, the ridicule of the gentleman from Franklin, in relation to it, would have been entirely out of place.

He (Mr. W.) wished something to be inserted in the constitution, relative to the repeal of charters hereafter to be granted, and perhaps the power ought to be reserved to a single legislature; but, he conceived it highly probable that a majority of the convention would not go for that, therefore it would be well to reserve the power for two successive legislatures, to prevent controversy hereafter. The last clause of the amendment was in these words:

“And no such corporation shall be created, extended, or revived, whose charter may not be modified, altered, or repealed, by the concurrent action of two successive legislatures, subject to an equitable and just indemnification.

Now, the charters of those banks, at present in existence, might be repealed without the concurrence of two legislatures.

The amendment relates to charters hereafter to be renewed or granted, and as one bank has been chartered without any restriction, others may be. In order to guard against future abuses, we should lay the power of revocation, deep and strong in the constitution of the commonwealth.

In reference to the indemnity to be granted, let the power be exercised by two successive legislatures, rather than leave it doubtful. Let us put it there, in order to prevent the legislature from giving unlimited power to any bank, and to prevent any corporation from wringing from a legislature an ill-merited charter. The principle which we radicals or destructives, as we are called, seek to establish, is the great and salutary one, that the state has a right to control all corporations, and to repeal or alter any grants of power made under charters of incorporation. Every inch of privilege and right belonging to the people originally, and not to corporations, must be defended by us, the radicals, and we will defend it against the power of all the banks which the legislature has chartered, with or without an express reservation of the rights of the people. The rights of the many are the superior rights. They have the highest claim upon us. When these rights are bundled up and thrown into the hands of corporations, we want to have the way easy and open to resume them. We will not wrong even our oppressors. We will give full pecuniary indemnity; but we wish to reserve to ourselves the right of rescuing ourselves and our children from the tyranny of these soulless corporations. I think too much is required of us when we are asked to agree to a provision which allows one legislature to grant a charter which it will take two legislatures to repeal; but we will take even this if we can get nothing more. When we get this, we will go home and tell our constituents that we labored

long and faithfully to induce members to give us some constitutional restriction, which would not be deemed ridiculous, and which would be adapted to its end, and that this was the best and the only restriction that we could prevail upon them to agree to. We can tell them that some ridiculed us, and that others denounced us as immoral and as the advocates of principles destructive of the foundations of civil society. We can tell them that age and experience, and wit and wisdom were against us, and, most of all, that the majority was against us; and, in fine, that we were obliged to take this or nothing. This, sir, is what we must say. We can do nothing, in consequence of the panic and odium raised by moral and religious, but designing people, about the danger of touching the banks, and of giving the people their rights.

The Bank of the United States was chartered under the influence of a panic got up in this same way, and it was chartered by a minority legislature. There is not a single advocate of the bank in this body, who dares to submit the question to the people of Pennsylvania: "Shall the Bank of the United States continue to exist?" But when we raise the question whether we shall have the power to repeal a charter when, in the opinion of all mankind, it is necessary to repeal it, we are silenced and put down, and told that the bank shall not be touched. Perhaps it can never be got rid of, but it was incorporated in violation of the popular will of the state, and, if any doubt it, let us submit the question to the people and let them decide it.

It was in direct violation of the will of the people of Pennsylvania, and he asked of gentlemen on what grounds they could think of passing this amendment. He voted in favor of the principle which required two successive legislatures to pass a bill of this kind, and he was also favorably inclined towards the principle contained in the other gentleman's amendment. He was inclined to think that he would vote for the amendment of the gentleman from Lancaster, (Mr. Hiester) first, and then for the amendment of the gentleman on his left, as amended.

Mr. BELL said, as he supposed it was not intended now to take the question, he moved an adjournment, which motion was disagreed to.

Mr. MERRILL had hoped when gentlemen introduced propositions of this kind, that they would have some strong arguments to bring forward in support of them, and, that a reasonable time would be given for their consideration, but he had heard no good reason for the adoption of this amendment, and he feared the question would be passed without giving sufficient time for its consideration. He had many strong and serious objections to the amendment of the gentleman from Lancaster, (Mr. Hiester) besides those which had been suggested by other gentlemen who had spoken, and he trusted it would not be adopted by the convention.

Gentlemen have charged the legislature with all kinds of corruption, and if it is the hundredth part as bad as they represent it, he took it they ought not to confer this power upon it. It seemed to him, on this question, gentlemen had shown great inconsistency. They have said that the legislature in chartering banks, have, in many instances, misrepresented the will of the people, and have in some cases been corrupt. Well, if this is the case, will they not misrepresent the will of the people in the taking away of bank charters; and may they not do this from corrupt motives? He

did not say they would do so, but if they acted improperly in one case, might they not as easily do so in the other? If the legislature has misrepresented the will of the people, can gentlemen, by this amendment, command it or bind it so that it will not do so again? He thought not. But gentlemen seemed to be placed in a strange position in relation to this matter, as it seemed in their opinion, that the legislature only erred when a bank was to be chartered.

Now, gentlemen either believed that the legislature was corrupt and bad, or that it was not. Well, if the members of that body betray their trust and disregard the will of the people in the chartering of a banking institution, will they not do the same in the repeal of a charter? It seemed to him that the course of argument which had been pursued here, was entirely wrong and ought not to be continued. The gentleman from Luzerne, as well as other gentlemen, had told us a great deal about the corruption of another body of men like our own body, and now sitting in another place.

Gentlemen have told us of the violations of instructions, and of the sacred will of the people, committed by that body, but he has not recurred to the fact that it is possible for us to run counter to the will of the people of Pennsylvania. Is it not just as likely that we are acting contrary to the will and wishes of the people in much that we do, as it is that the legislature has done so? Gentlemen may get up here and denounce the legislature as being corrupt, and members of that body may retaliate and denounce us. This is a state of things which ought to be avoided, and he hoped gentlemen would forbear from this kind of crimination. It was, however, not only the legislature which was subject to this kind of attack, but it was all who opposed the destruction of the existing constitution. This he took to be very unkind in gentlemen. He was disposed to go as far as he could, consistent with his duty, but he was not to be driven from his principles by this kind of abuse. He always endeavored to do his duty in every situation in which he was placed, and he desired not to have his motives questioned in consequence of his acts.

Mr. WOODWARD explained. He had not spoken of the motives of gentlemen—he had spoken merely of corporations.

Mr. MERRILL. Where is the difference between the act and the result of the act? When you speak of the motives of corporations, you must mean the motives of those who manage them. He could draw no such distinction as the one drawn by the gentleman from Luzerne, but he would pursue this no further. Gentlemen have said, however, that the power exists now to repeal all charters, because that public necessity must supersede private rights. This seemed to be the ground of argument of many gentlemen. Now he admitted that houses, and lands, and all other private property, might be taken for public use, but he denied entirely, that private property could be taken for no use, and destroyed. He apprehended there was a wide difference in the two cases. The government had a right to take any private property in time of public exigency and war, and apply it to defence, but it had no right to take such property when it had no use for it whatever, and this was the proper distinction to be drawn in these cases.

Here is an institution which brings innumerable blessings on the state, and yet it is said that it ought to go down. It is said that the legislature

which chartered it, did not represent the will of the people of the state. I do not believe that it misrepresented it, and do believe that the act of incorporation which they granted, was a useful and beneficial thing for the state of Pennsylvania.

Believing the banks to be useful to us, we wish to secure and protect them. The gentleman from Luzerne says, if they don't like the terms which we impose upon them let them go away. But we do not wish to drive them out of the state, or to prevent their usefulness in the state. If we drive them out, they will invest their money in other states. We shall thus impoverish ourselves and enrich our neighbors. If banking incorporations are beneficial to the state and conducive to the prosperity of the country, must they be so restricted as to prevent them from carrying on or engaging in any business. Will any set of men put their money under the arbitrary will of the majority of the legislature? If we adopt the proposed restrictions, with the limitation of fifteen years to the duration of a charter, we shall drive much banking capital out of the state. The existing banks can have no desire that other banks should be incorporated. They cannot endure rivals. When the struggle takes place for the renewal of charters, how will the small counties, with a single representative, fare?

The counties with a single member, will not have influence enough to get a renewal. The large counties, by combining together, as they will do in the scramble, will engross all the banking incorporations. The interests of the small counties, will be thus utterly neglected. It is the small banks, in the small and poor neighborhoods, that would be crushed by the restrictions, and not the large banks, in the large and influential cities and towns. I disclaim any favor or affection for the banks, except so far as I believe them to promote the people's interest. Why should banking business be done by corporations? Because wealthy men will not risk all that they have in a bank. They will risk only a portion of their money in a joint stock with others. But it is important to the people to have the care of their money through the banks, and therefore we are in favor of these corporations. I apprehend that there is a disposition to come to some compromise on this subject, and I think it can be done to-morrow morning. Under that impression, I move an adjournment.

The convention then adjourned, to meet at half past nine to-morrow morning.

FRIDAY, JANUARY 12, 1838.

Mr. DARLINGTON, of Chester, presented a remonstrance from citizens of Chester county, against any change in the constitution, making the rights of citizenship and suffrage, dependant upon the complexion of the individual; which was laid on the table.

Mr. COATES, of Lancaster, presented a remonstrance from citizens of Chester county, similar in its character; which was also laid on the table.

Mr. THOMAS, of Chester, presented a remonstrance, similar in its import, from the same quarter; which was also laid on the table.

Mr. CLARKE, of Beaver, submitted the following resolution, which was laid on the table for future consideration, viz:

Resolved, That the eleventh rule be amended to read as follows, viz: No delegate when speaking shall be interrupted, except by a call to order by the president, or by a delegate through the president, or by a member to explain, or by a motion for the previous question; nor shall any delegate be referred to by name in debate, unless for a transgression of the rules of the convention, and then by the president only."

FIRST ARTICLE.

The convention resumed the second reading of the report of the committee to whom was referred the first article of the constitution, as reported by the committee of the whole.

The question being on the amendment submitted by Mr. HIESTER, to the amendment of Mr. REIGART, striking therefrom, all preceding the word "nor," and inserting, as follows:

"The legislature shall not grant or renew any charter of incorporation, until after three months' public notice of the application for the same shall have been given in such manner as shall be prescribed by law. Nor shall any corporation hereafter created, possessing banking, discounting, or loaning privileges, be continued for more than fifteen years without renewal; and, no such corporation shall be created, extended or revived, whose charter may not be modified, altered or repealed by the concurrent action of two successive legislatures, subject to an equitable and just indemnification."

Mr. HIESTER rose and modified his amendment, so as to read as follows, viz:

"No corporate body shall be hereafter created, renewed or extended, with banking or discounting privileges, without six months' public notice of the application for the same, in such manner as may be prescribed by law. Nor shall any charter for the purposes aforesaid, be granted for a longer period than twenty years; and, every such charter shall contain a clause reserving to the legislature the power to alter, revoke and annul the same, whenever, in their opinion, they may be injurious to the citizens of

the commonwealth. No law hereafter enacted shall contain more than one corporate body."

■ Mr. JENKS, of Bucks, rose and said, he did not happen to be in the hall yesterday, when the gentleman from the county of Philadelphia, (Mr. Martin) made an attack on the directors of the Bucks Bank. The gentleman had said that the directors had divided the money among themselves, and issued spurious notes. This was a mistake. No men were of more honorable standing than these gentlemen. The charge was not true. One officer belonging to that bank had behaved improperly, and was immediately discharged. It was true there were counterfeit notes of the bank, but the directors were not to blame for this. What bank is there whose notes are not counterfeited? The farmers of Bucks, who had acquired fortunes by their industry, were the directors of this bank, and he was sorry that any delegate should have thought it proper to asperse them.

Mr. MARTIN explained. He thought that he had been sufficiently guarded. Expressions used in debate may be easily altered and twisted from their proper meaning. But, when the gentleman from Allegheny, called on the gentleman from Bucks to say, if there had been any stock jobbing, what was the answer which must be given? Seventeen years ago, he knew that the bank had misappropriated funds, and the president issued spurious notes, signed by his own name, and flooded the country with them. He himself had the honor to possess one ten dollar note of this description, and lost it. He did not believe that these officers were now in the administration of the affairs of the bank. They were either all dead, or had run away. He was not about to detract from the standing of the present officers of the bank. How was the gentleman to whom he had alluded made the president? The gentleman from Bucks, could say more on this subject if he pleased.

The gentleman from Bucks on his left, (Mr. M'Dowell) could not say much about it, as perhaps, he was not born long enough ago to know any thing of the facts. As to the directors of the Bank of the Northern Liberties, he had understood that they combined and used all the funds of the bank, and that the widows and orphans, who were holders of its stock, lost the whole. The gentleman from Allegheny had called on the delegates from Philadelphia, to give information, and I (said Mr. M.) touched lightly the facts in reply. The gentleman from Allegheny, had also called on the delegates from Delaware. Will they say what they knew? What will they say? They cannot say that the directors of the old Delaware bank, at Chester, appropriated part of its funds to their own use; but, it is thought there was something irregular in their course. As to the other institutions, he was aware, that two faces could be put on every transaction. What had he to do any more with the bank of Bucks than any other? Nothing. He would only say, that there had been complaints from every quarter, and as we, who have taken a stand against these abuses are beaten down, and taunted, we have a right to use these facts. If we are beaten, it will be like the beating of King Darius, three such victories would be enough to destroy any nation. We have come here to carry out the will of our constituents, and we are bound to do all that we can in discharge of our duty. But, if it is to be continually rung in our ears, that the banks have vested rights, and that nothing can or

must touch vested rights ; let us, at least, have an opportunity to say, we differ with some of those who advocate these principles.

Mr. RITTER, of Philadelphia county, said his colleague was mistaken as to the northern bank.

Mr. MARTIN resumed.

He meant to vote for the amendment. He was about to say, the gentleman from Pittsburg said the banks must not be touched with hands unhal-
lowed; because that Pittsburg had been raised from a commencement with a single glass manufactory, and eighty thousand dollars, to a large city employing profitably millions of capital by the aid which it had received from banks. If he might be allowed to say, from what evidence he had in his possession, how the United States Bank had carried on, when it had its branch in the west—perhaps at Maysville, in Kentucky—he could shew how she put them under way, then when their bills became due, told them that they could not have new discounts; but, that she would let them have domestic bills, and then, by various changes, swelled the discounts to sixteen or seventeen per cent. He had been told by a gentleman from the west, that such was the extent of the usury practiced there, that no country could stand it. He could not say positively that it is so. But hear say evidence in this case was as good as it was in the argument of the gentleman from Allegheny. It had been the complaint, over and over again, that the banks of the commonwealth were fleecing the people. He would read some evidence from the report of the joint committee, appointed to examine the affairs of the bank. The document had been taken from his table, and was doubtless in the hands of able attorneys.

“One of the directors, Mr. John T. Sullivan, stated that one broker had received during one year \$214,526, at five per cent, while good business paper, amounting to \$1,500,000, which would have paid six and three quarters per cent, had been rejected. Whether his opinion, of the quality of all this paper be correct or not, the joint committee do not pretend to determine. There was sufficient evidence to convince them that brokers had been indulged to too great an extent.”

What was all this paper thrown out for? Was it not the money of Pennsylvania, which was in the bank, and ought it not to have been applied to sustain the business of Pennsylvania? He would not go any further into this subject, unless he was required to do so. In conclusion, (said Mr. M.) suffer me to say, that I have no disposition to affect the characters of those respectable directors who now control the Bank of the Northern Liberties.

He believed there were none of those there now who had any thing to do with the rascally transactions to which he had adverted, for such they were when they ruined the widows and orphans who held the stock. He did not mean to say, that the present officers were not different men, as was the case in the bank of Bucks, where the officers are different from those engaged in the transaction, sixteen or seventeen years ago—before the birth of the gentleman from Bucks, on his left. He had not stated that the directors of the Delaware, had appropriated the funds to their own use.

Mr. SERRILL, of Delaware. Such a thing never occurred in the Delaware Bank.

Mr. MARTIN resumed.

I stated that the Bank of Southwark had been useful to the people, but had shaved notes. It was run upon in consequence of the difficulties in which it was involved, and its doors were crowded by the holders of its notes. My object is to shew that the practices of banks are such that they are not entitled to stand above every class of men who tread the soil of this commonwealth. The people will not consent that there shall be no alteration in the constitution, in relation to these corporation? There are numbers who can prove the existence of these gross abuses. I might go much further in the exposition of them. They are no secrets—they are not things done in a corner. They would be known. It must grow out of such a state of things, that the people will demand a remedy for these evils, and we who stand here to advocate their rights, and sustain their will, will not be driven from our point. The voice of the people must and will be heard.

Why shall we disobey and neglect the voice of the people? It cries out against these abuses. Public opinion is coming at last. It is heard in every part of the commonwealth. It was expected that we should act upon this subject, and the people now require it of us. Let us look at the subject, and treat it in the manner which it deserves. Let us not view it as if we were prostrate before the banks, and ready to call upon them to put their foot upon our necks.

Mr. BIDDLE had hoped, he said, that the language used by the gentleman from the county of Philadelphia, against some of our most worthy citizens, was hasty and inconsiderate, and would not be persisted in. But hearing these unjust imputations deliberately repeated, and insisted upon by the gentleman, he felt that justice and truth required that a direct contradiction of them should be openly and boldly made. It is a very easy thing to cast odium upon banks, and upon individuals connected with them. But it was due to his neighbors and fellow citizens, to say that the charge against them, had no foundation in fact. The gentleman thought proper to charge the directors of the bank with having divided the funds of the bank among them.

Mr. MARTIN did not wish, he said, to say a word of the directors of that bank. He wished to be understood as not bringing any charge against the present or former respectable directors of that bank.

Mr. BIDDLE was glad to hear from the gentleman that he had not intended to cast any imputations upon the present or former directors of that bank.

It is an easy thing, sir, to bring charges, but when they are met, they are often frittered away to nothing, or are found to be only the bold allegations of slander. This I do not apply to the gentleman from the county, but I do say, that slander has been very busy, in regard to the conduct of the bank referred to. The fact is, that a treacherous book-keeper, combining with an individual, not connected with the bank, did rob the bank, and the stockholders of a large sum. As well might the directors of the bank be charged with the crimes of the midnight robber as with this offence. If honest men are denounced, because those who

happen to be in their employ, become victims of depravity, few will escape.

The president and directors of that bank stand above any reproach or suspicion. The president is one of the most worthy and respectable men in the country, and are he and the directors, and the very worthy officers of the bank, to have the finger of scorn pointed at them, because an individual employed in the bank, betrayed his trust?

But the gentleman is not content with assailing his fellow citizens in the city and county of Philadelphia, but he must travel into the neighborhood, and asperse the character of respectable men there. The directors of the Bank of Southwark, are also assailed. Is it thus that the crusade against the banks is to be carried on? A warfare which requires such means to sustain it, must indeed be unholy.

Mr. BROWN, of the county of Philadelphia, said, that all these personal matters had passed away some days since, and we were now prepared, he hoped, to confine our attention to the question as it is. The history of the past frauds, and mismanagement of banks, will be of but little aid to us, in forming a fundamental rule for their restriction in future, and I regret, said Mr. B., that my colleague has pursued that subject further. I believe it is the sense of a majority of this convention, that some restriction should be placed upon the banks, for the purpose of preventing them from improvidently or corruptly granting charters for their incorporation. There is a disposition to provide, in the first place, that the public be made acquainted with the intention of the parties, to apply for a charter, and, in the next place, to subject that charter, when granted, to the control and revision of the legislature. The amendment is opposed by some, but it has many advocates among both of the political parties represented here.

The great principle that the legislature has a right, at all times, to repeal a charter, has been openly and warmly controverted of late. Knowing as I do, that it was always the policy of Pennsylvania, to reserve a right to repeal any charter, and knowing that the legislature have, in one prominent instance, abandoned this good and wholesome rule, and attempted to put a bank charter beyond the control of the people, I think it necessary to prevent them from doing it again. The latter clause, providing that the incorporation be indemnified in case of repeal, I do not approve. I wish it to be a part of the contract, if it is a contract, that the legislature shall repeal the charter without restriction or indemnity, whenever they shall find it proper to do so,—though, for my own part, I consider it as a grant of a privilege, and not as a contract. All the charters granted by the legislature of Pennsylvania, to banking incorporations, excepting that granted to the United States Bank of Pennsylvania, provide that the legislature may have full power to alter and revoke the same. All the banks in the state, hold their charters subject to this repealing clause, except the Bank of the United States.

How can gentlemen say that no prudent man will invest money in the stock of a bank whose existence depends upon the will of the people, as expressed through their representatives, when they have done it. Every legislature except one, has considered it their imperative duty to insert a clause in every charter, providing for its repeal, in case the legislature should see fit to repeal it. I am not disposed to go backward on this

subject, and give corporations greater privileges than the people of Pennsylvania have heretofore been willing to give them, and I know that the legislature, in reserving the right to alter and repeal charters, has acted in accordance with the policy of the people of this state. If we go farther than the wisdom of our predecessors, and offer indemnity to banks, in case the legislature finds it proper to repeal their charters, we shall involve the matter in difficulty. If we do not make this provision of indemnity, no faith will be violated by it. These two provisions we want—the notice, and the reservation of the right to alter and repeal charters, and nothing further. To go before the people with a proposition to enlarge the privileges of the banks, by requiring that the action of two successive legislatures, be necessary to the repeal of their charters, and that they be fully indemnified, will be absurd. Can it be maintained here, that the legislature has not the power to repeal charters, even with indemnity? Then it must be also maintained, that any one legislature, though misrepresenting the views of the people, may barter away the exclusive right and privilege of banking in this state forever. If this can be done for five and thirty years, why can it not be done forever? The legislature may say to some banking company, upon this principle, if you will pay the debts of every county in the state, or do this or that, which we propose, we will give you a perpetual charter for exclusive banking in this state.

Sir, if the opinions and doctrines leading to such a state of things, now prevail,—if such a charter were now in existence, and thus obtained,—and there was no legal or constitutional way of repealing it, I would rather rely upon the spirit of a free people to redeem us from our thralldom, than I would take so inadequate, and so humiliating a remedy. I trust that every gentleman will see that, though much may be done for good by an absolute power over this subject, in the hands of the legislature, yet that much also may be done for evil, and that, therefore, the safest and wisest course, and the course most consistent with the principles of free government, is to limit and restrict their power.

The time fixed in the amendment of the gentleman from Lancaster, for the duration of the charters, granted by the legislature, strikes me as much too long. Ten years would be an amply sufficient length of time for the duration of any charter, and at the expiration of that term, if the institution was unobjectionable, it could be easily renewed. Fifteen years is too long a time, but I like the principle of limitation to some short time. I have, after all, some doubts, whether the end which we have in view, can be obtained, by accepting either of these amendments. I doubt whether we shall gain any thing sound and substantial by them, and, if we cannot, we might as well leave it to the majority of the legislature to attend to the subject, and to conform their action upon the principles and policy of the state, from which, upon one occasion, they had so widely and unwisely departed.

Mr. JENKS said, he regretted exceedingly that so much time had been spent upon this question, but after the broad and unqualified assertions made here, impeaching the character of some of our most respectable citizens, he would feel himself delinquent in his duty, if he did not come forward to contradict them.

He found in the papers a sketch of the remarks of the gentleman from the county of Philadelphia, (Mr. Martin) in which aspersions are cast

upon some of the most upright and respectable citizens of Bucks county. The gentleman has not given a single fact in support of his grave accusation. Never was individual assailed upon falser ground, or by more barefaced assertions, than in this instance.

The gentleman, the other day, asserted that the directors of the Bank of Southwark, had loaned away all the money to brokers, and the next day that it was not so. If he will inquire, he will find that his charge against the Bucks County Bank, is equally unfounded. I had the honor to know the directors of that bank at the time referred to by the gentleman, and they are nearly all directors still, and I know them to be men of the fairest standing in society. There is not a bank in the commonwealth whose paper has stood higher, and they never did issue any spurious paper, as the gentleman alleges.

Mr. MARTIN remarked that he had never said that the directors issued spurious paper. He said that the president put in circulation in one day a very large amount of paper, and the president was made by the directors.

Mr. JENKS. Was it the paper of the bank?

Mr. MARTIN. It had every appearance of being the paper of the bank.

Mr. JENKS. Had it the appearance of notes of the bank?

Mr. MARTIN. Certainly it had. There is no doubt of it. Every one took them for bank notes. They were issued for the purpose of circulation, and were circulated as bank notes.

Mr. JENKS. There have been counterfeit notes issued of that bank. Are the officers and directors of that or any other institution, responsible for the counterfeit notes upon it that may be put in circulation? I am surprised at the manner in which the character of bank directors is assailed by the gentleman. He says he was never a bank director. I wish he had been, and had been more disposed to do justice to that honorable and useful class of our fellow citizens. If he makes any insinuations against their integrity, it is altogether from not knowing them. It has been my lot to know many of them, and a more honorable and useful class of men, I do not know in our community, and I regret to hear them stigmatized here as intriguing or dangerous. But to return to the Bucks County Bank. No one lost any thing by it. One of its officers was unfaithful to his trust, and the directors discharged him. What could they do more? We know the weakness of human nature when exposed to temptation, and that it is not the lot of every individual to have a mind so well disciplined as to act always from the stern dictates of principle. Sir, I feel the accusation made against these gentlemen, because I know many of them, and know them to be men of the most upright character—many of them farmers in our county, who have acquired their property by the sweat of their brow; and I confess that, should I designate this attack upon them, by the epithets which, in my opinion, it deserves, I should use improper language.

Mr. STERIGER said, he was a member of the legislature when a batch of banks were re-chartered, and among them the bank of Bucks county

The Bucks County Bank was then in such bad odor, that it was struck out of the bill. The paper of the bank was then at thirty or forty per cent discount. There was provision in all these charters for their repeal. I defy any one to shew a single charter since 1809, without such a reservation, except only the charter of the Bank of the United States. But now we are often told that it is downright robbery to take away the charter of a bank. It should be required, in my opinion, in addition to the provisions of the amendment, that the bank should agree to the alterations, and modifications which the legislature may make in its charter. Without such a provision, some doubt and difficulty may arise. In relation to what is said of the injurious effect upon the banking institutions of the state, which such a clause will have, it is only necessary to point to the effect which the practice of the legislature has had since 1814. The banking system has flourished in great vigor since that time, and under this very reservation of a right to repeal charters. All the banks except four, in this state have been conducted under that restriction of their charters. No bank charter was ever repealed under this provision since 1814, and that ought to be taken as a proof that the power will not be wantonly and capriciously exerted.

Among the individuals who voted for it, were the names, at least, of two distinguished men, who had been frequently alluded to in the debates, which had taken place in this body. He meant William Findley and John Smilie. They had been represented as being in favor of a Bank of the United States, when the fact was, they both voted for the repeal of the charter, as members of the legislature. If their names and characters were of so much importance at that period, they were of equal importance at the present time. They were faithful, honest and sensible men, who acted with a full knowledge of their duty when they voted for the repeal. And, they did so, because they believed it injurious to the best interests of the community at large.

He would state another fact, and that was, that about three-fourths of that legislature voted for the repeal of the charter. At a subsequent legislature, an application was made to rescind the charter, but it was not granted. He had not forgotten the fact stated by the gentleman from Northampton, (Mr. Porter) a few days ago, which was, that, notwithstanding the repeal, the bank went on with its business. But, it was to be recollected, that they did not do so under the charter granted by the state. They carried on their operations under an ordinance passed by congress in 1785; and it became a question, after the adoption of the constitution, whether the act still remained in force. General Hamilton doubted whether they could carry on business, inasmuch as they had accepted a charter from the state of Pennsylvania. He inclined to think they could not. Another thing presented itself to his (Mr. S.'s) mind, and which was deserving of consideration. All the banking business of the state, except what was done by the Bank of North America, was managed by the general assembly, who, under a special act, issued bills of credit, or bank notes, from time to time. And, they were loaned upon interest, and that interest constituted a large item in the expenses of the government. Those bills, too, were frequently reissued, recalled, or renewed. The banking paper of the state, therefore, from the period of the charter of the Bank of North America, was always under the con-

trol of the legislature, who were consequently enabled, from time to time, to regulate it in a manner most conducive to the public interest. One provision of the act prohibited the loaning, to any individual, of a less sum than ten pounds or twelve pounds, or more than one hundred pounds. And, the reason why the latter sum was fixed upon, was, that no higher sum should be loaned, as it might lead to speculation and overtrading, all the consequences of which we were now suffering, owing to a change of that system.

The charter of the Bank of North America was granted in 1787, and it was limited to fourteen years, and the capital amounted to two millions only. The legislature refused to repeal the charter, but they granted a new one, with extended powers. The charter of the Bank of Pennsylvania, and that of the Philadelphia Bank, had been renewed several times. Subsequent to that, no charter had been passed for the repeal of a charter, except that of the Bank of the United States. He did not desire to go farther into the subject. With respect, however, to his amendment, he must confess that he was surprised at the small vote that was given for it, because it contained provisions which had been supported by the legislature, at various times, and which would give to them the power, they ought to have, to take away chartered privileges, when they deemed it to be right to do so. Although he would have preferred some other amendment to this, but believing it would be productive of much benefit, he would give his vote for it. The amendment could not be injurious, but beneficial.

Mr. FULLER, of Fayette, rose for the purpose of correcting an error, into which the delegate from Montgomery, (Mr. Sterigere) had fallen. There was no such name as "Mutton Town Bank" in the bill.

Mr. Cox, of Somerset, said he had made up his mind not to say any thing on the subject, but since he had heard these repeated attacks on the Bank of the United States, he could not remain silent. Inasmuch as he was one of those who voted for the charter granted to that institution by the legislature of Pennsylvania, he deemed it his duty to say a few words in vindication of the course pursued by himself, and those gentlemen who voted with him. He would recur to some of the circumstances, under which the bank was rechartered, and also, advert to some of the topics touched upon by several delegates.

He believed that the public voice was then in favor of the recharter of the bank, as it was at the present moment. This was his deliberate opinion, whatever might be that of the gentleman from Luzerne, (Mr. Woodward.) With respect, then, to the amendment before the convention. If it were true, as contended by the delegate from Montgomery, (Mr. Sterigere) that the legislature of Pennsylvania do already possess the power to repeal, alter, or modify a charter, why, then, a provision of this kind would be entirely nugatory. But if, on the contrary, they have not that power, the subject was one deserving of the most serious consideration.

He (Mr. C.) believed, and would say now, as he always had done, that the legislature have no power to repeal, alter, or modify a charter where granted, and where there was no express reservation to the contrary. We all knew, however, that the legislature have the power to put

a clause into every charter they grant, to enable a future legislature to repeal it, if they think proper. Now, that being the case, he apprehended there was no necessity for making a constitutional provision, as the legislature would exercise the power they possess, in a manner best calculated to promote the interests of the commonwealth. He, for one, was not prepared,—unless he heard other reasons than those already advanced, which should convince him of the propriety of that course—to put a provision in the constitution compelling the legislature, under all circumstances, without reference to the public good, to impose certain restrictions on those to whom they might grant charters. He was not disposed—as some delegates appeared to be—to denounce the legislature of Pennsylvania as corrupt and unworthy to be trusted. He believed, it being a representative democracy, that whatever the legislature did, the people also did in effect. He contended it was certainly one of the cardinal principles of republicanism, that the people should be as little restrained as possible—that they should be left to regulate their own concerns, and govern themselves by the adoption of such laws, as would promote their happiness and prosperity. He maintained, that a departure from this principle was nothing less than a departure from one of the great principles of republicanism. It might be well enough, and in accordance with the policy of despotic governments, to impose restrictions on the people in this and other respects. But, he had yet to learn that it was either proper, politic, or expedient to adopt restrictions, such as were proposed, in a republican government like ours. He would, therefore, vote against them, unless strong and overwhelming reasons could be adduced to show that the people desired them.

He would now turn to some of the specifications that had been made by some of the delegates against the officers of certain banking institutions. Gentlemen had reasoned, as if the circumstance of a few individuals acting improperly, was of sufficient importance to prove the whole system bad. It would be well for gentlemen to inquire, whether it was the system that was bad, or the individual. He maintained, that the banking system was not necessarily corrupt, because, the individuals who had been employed were so.

The gentleman from the county of Philadelphia, had charged one of the officers of a bank in the county of Bucks, with having been guilty of improper conduct. But, this was not one of the necessary fruits of the system; it was, because the officer himself was a bad man. He (Mr. Cox) regarded this as one of the most extraordinary reasons he had ever heard advanced in favor of the adoption of an amendment. If this amendment were adopted, or forty of a similar character, would it, he asked, prevent an individual, placed in the same circumstances, from acting in a like manner? Was there any thing in this provision to prevent a like occurrence? Certainly not. But, by the same course of reasoning that had been adopted by the delegate from the county of Philadelphia, and several other gentlemen, a man might attempt to prove any thing under the canopy of heaven: he might argue that the christian religion itself was corrupt and bad, and also, that the whole credit system was so, and that all mankind was unworthy of credit and confidence.

He (Mr. C.) could point to many instances of men, who were not only professors of religion, but undertook to preach the gospel,—and among

that number was the celebrated Dr. Dodd, who was executed in England many years ago, for forgery—who had been guilty of many heinous crimes; but was religion to be ridiculed and reviled, because there happened to be some bad men among its professors? Undoubtedly not. There were many instances in our own country, of men having crept into the public confidence, who were dishonest and unworthy to be trusted. This, however, only proved that there were some bad men, but it did not prove that all were so.

Now, in relation to the Bank of the United States, which seemed, like a ghost, to be haunting some gentlemen every hour of the day, and he presumed, perhaps, of the night too. Indeed, if one might judge from the feeling manifested by them, it was no great stretch of the imagination, to suppose that they dreamt about it. He recollected reading that the editor of a paper in the west, used language in reference to the institution, which was to this effect:

“The United States Bank must be put down, and if it could be effected in no other way, he and many others were ready to aid in razing it to the ground; and that it should be done, and salt strewed over its foundation.” Whence, he would ask, did that strong feeling originate? And, was it true that the majority of the people of the state of Pennsylvania were opposed to the bank—that they had condemned it, and those who voted for giving it a charter? He could not arrive at any such conclusion after looking at what had transpired, both before and after the charter was granted. The gentleman, presiding temporarily over this body, (Mr. Cunningham) and the delegate from Beaver, (Mr. Dickey) both represented districts, prior to the passing of the charter, where the dominant party in the nation had the ascendancy, and they did what they deemed best calculated to promote the welfare of the state. And, having since been before the people, they had sent them to this convention, which was a clear and unequivocal proof, that there had been a change in those districts. Those who called themselves the democratic party—but he denied that they belonged to that party—were diminishing in numbers, for a great many had left it, and pursued the independent course which the gentleman, (Mr. Cunningham) had done. He repeated, that it had been proved beyond all question, that the people of the commonwealth of Pennsylvania, approved of the recharter of the Bank of the United States, and that they did now. The people never changed their opinions without some good reason; and if they were to be deduced from the meetings, he would say, that the popular voice was most decidedly as strong, at least, as ever it was in favor of the bank. He desired to know, if there was any one delegate in this convention, who would rise in his place, and undertake to declare that the people were almost unanimously in favor of the institution in 1831–32–33–34? He thought there was not. The voice of the people was to be ascertained by the public feeling.

He begged leave to read the resolutions that were adopted at a meeting of the old General's friends, at Williamsport, in 1832, when it was rumored that he intended to veto the bank bill. The meeting was composed of some of the leading and distinguished men belonging to the same party to which the delegate from Luzerne (Mr. Woodward) was attached.

Here was an example set us! The resolutions were accompanied by a preamble, which, however, he did not deem it necessary to read :

"Whereas, Our country has enjoyed a degree of prosperity, unparalleled," &c. Therefore,

"Resolved, That the rumours in circulation of the President's intention to *veto* the bill for rechartering the *United States Bank*, we deem *SLANDEROUS*, intended to subserve electioneering purposes, and that the course of the president, will conform to the *almost unanimous* wishes of Pennsylvania, and to the interests of the Union, when that bill shall be presented to him for his sanction."

"Resolved, That General Jackson will not desert the interests of the state most prominent in its zeal in his behalf, and that she will not be deserted by him in the hour of trial.

Signed by,

DAVID REYNOLDS, President.

R. C. GRIER,

J. B. ANTHONY,

ELLIS LEWIS,

} Vice-Presidents.

W. F. PACKER, Secretary.

Williamsport, May 5th, 1832."

Mr. C. resumed. He believed all those gentlemen were known to the gentleman from Luzerne, (Mr. Woodward.) If he was not mistaken, Ellis Lewis was appointed a judge by Governor Wolf. J. B. Anthony is a member of congress. Now, this was a very large meeting, held by the political friends of the delegate from Luzerne, and those who continued to act with him. If those resolutions contained the truth, that the voice of Pennsylvania, was almost unanimous in favor of the re-charter of the bank, and inasmuch, as no good reason had since been given, why the people had changed their opinions, it was to be taken for granted, that they were still in favor of the bank. J. B. Anthony, and other distinguished men, notwithstanding that their great leader put his veto on the bill, still clung to him! Yes, as he (Mr. Cox) had already stated, J. B. Anthony presided at the meeting, and he was now spoken of to fill the office of governor, by the self-styled democratic party. Now, those men, whose names he had read, were honest and intelligent, candid and open, in the avowal of their sentiments, as set forth in the resolutions. They had fully and carefully examined the subject. The bank had existed, in 1832, for many years previously, and its effects and influence upon the business community, were then perfectly well known. The subject of the re-charter of the bank, had been discussed for many years, and the few individuals who were opposed to the measure, had assigned all the reasons they had to urge against it. He would re-iterate what he had already said, and that was, that the people had, after long and mature deliberation, made up their minds as to the propriety of re-chartering the institution.

The resolutions which he read, stated that the almost unanimous sentiment of the people of the commonwealth of Pennsylvania, was in favor of the continuance of that bank. If it were so in 1832, as he had before observed, what reason had we to believe that it was not so at the present time? Where was the evidence that would warrant this convention in

saying that the people had changed their opinions on the subject? Or, that the large majority which was in favor of the measure, had now shrunk into an insignificant minority? He was not aware of any evidence of the kind.

He knew a gentleman of high standing, belonging to the same party as the delegate from Luzerne, (Mr. Woodward) who travelled through the interior of this state last summer, and conversed with numerous individuals in relation to the bank, and he met with only one person, that condemned the re-charter of that institution by the legislature. He (Mr. C.) could mention the name of the gentleman, but, as it was rather a confidential matter, he did not like to do so. He knew that there were individuals, who had acted from sinister motives and considerations, and tried to get up an excitement. In making this remark, however, he did not wish to be understood, as alluding to any gentleman in this body.

It was manifest from the political complexion of the convention, that there was a party in it, that wished to accomplish certain ends. Was it not, he asked, a well known fact, that the delegates to this convention, were elected shortly after the re-charter of the bank? And, was it not also notoriously true, that some of the leaders of the Van Buren, or loco-foco—or whatever gentlemen might please to call them,—party, were among them? He would inquire of delegates, if they were not aware, when elected, that they would have to do certain things here, which, must, afterwards, be submitted to the people for their decision? He contended that the election of delegates, by those in favor of reform, was put upon the ground, that they would support the insertion of a provision in the constitution, annulling the charter of the Pennsylvania Bank of the United States. Yes! the election of the Van Buren delegates rested on that very ground. The leaders of the party told the people it was useless for them to make long appeals—that if they wished to be free from a corrupt institution—from a great monopoly which would bind them hand and foot, and make slaves of them, they must rise in the majesty of their strength, and insert such a provision in the constitution. Every means was tried, and every exertion made, that could possibly be, to get up a strong feeling against the bank, but in vain. For, it would be found, that the good people of Pennsylvania were not quite so much terrified and alarmed about it, as some gentlemen would have us believe.

What, he would inquire, did the freemen of Pennsylvania do? Why, they returned a majority of delegates, known to be in favor of the institution. And yet, this convention were to be told, that the people had condemned the bank, and the legislature that granted the charter. Surely, gentlemen who talked in this strain, must have entirely forgotten the evidence on the subject.

He would avail himself of the present occasion, to tell the gentleman from Luzerne, who remarked, that the people would continue to condemn the bank and the legislature,—and he had better note in his common place book, the prediction he (Mr. Cox) would now make—that at the next fall election, he would find, that the party who would attempt to raze the Bank of the United States—to put down that monopoly, as it was called, would be in a pitiful minority in the lower branch of the legislature. The delegate, and others, would discover that the freemen of Pennsylvania

were not quite so gullible as they might suppose. Those gentlemen would find, that they would again rise in the majesty of their strength, and return to the house of representatives, a majority of the unbought freemen, who were in favor of promoting the best interests of the commonwealth.

We had now the old cry of "monopoly," he would not say within doors, for he could not suppose delegates to be actuated by such considerations, as some individuals out of doors, who thought, the very salvation of their party depended upon keeping up the cry of "monopoly"—"monopoly." The reason why the cry was kept up was, for the purpose of creating the impression on the public mind, that chains were being forged for them, and that they would be deprived of their liberties, unless they put down this great moneyed power—this "monster."

One argument which he had heard urged against banks, generally was, that the people had sustained heavy losses by them. Some gentlemen in this convention, he understood, were in favor of a metallic currency, together with a limited amount of paper, of a certain denomination.

Not long since, he was in conversation with an old German farmer, who was a man of shrewdness and intelligence, and possessed of a considerable fortune. He remarked, that he had heard a great deal said about banks, and of the liberties of the people being endangered by them, and that they ought to be put down. He said he could not understand such reasoning, and he reasoned thus: if he borrowed nothing of the banks, he owed nothing. If he did not choose to take their notes, or have any thing to do with them, how they could deprive him of his liberty, he knew not. He said, that he had been doing business for forty years—that he had sold a great many articles of produce, one-tenth of which was paid for in cash, and nine-tenths in paper, and that he did a good deal on credit. He declared, that he had lost ten times as much by trusting individuals, as he had done by the banks—that if the banks were to be put down, he would be obliged to give more credit, because, specie would be scarce, and he would, consequently, lose more than at present. He did business with the banks—kept an account with them, because he found that he lost less by so doing, than he did by crediting those in his neighborhood.

If gentlemen entered into a full examination of the subject, it would be found that nine-tenths of all the money which had been lost in the city of Philadelphia, had been through particular individuals, and not by the banks. He would venture to say, that there had been more money lost in one year, by trusting individuals, than by the banks, within twenty years. Now, if that were true, there was ten times as much lost to the community, by crediting individuals, as there had been by trusting the banks. What, he asked, would be our situation, supposing all the banks to be extinct, and nine-tenths of all the business that was done in the commonwealth, done on credit—the debts ultimately to be paid in gold and silver? Why, as the old farmer truly said, the loss would be much greater then, than under the present system.

There was more money lost by the public in one year, through two individuals only, in Philadelphia, than there was in twenty years, by twenty banks; and, if this was true, he would like to know, what would be

our situation if there were no banks, and if all our business was done on credit?—our losses would then be much greater than they are now. There is so much talk about banking institutions, and their dangers and evils, that one would suppose, the party opposed to them, would steer clear of them; but, we see the very men who are loudest in their declamation, against banks and bankers, going on for years, creating the very monopolies, which they so much affect to dread. Why is it, that they have created three or four hundred banks in various states of the Union? Gentlemen here, who oppose banks, are honest no doubt, but how comes it, that so small a part of their own party support them, by pouncing upon all projects, for increasing banking capital and banking operations? Gentlemen are not willing, probably, to say, that their own friends are bank-bought and corrupt. They might infer from the very circumstance of their own friends going for the banks, that the people are in favor of creating and supporting them.

We find, sir, according to the report of the secretary of the treasury, that in 1835-6, twenty-three banks were created in the state of Maine. Every one knows, that the Van Buren party have the majority in that state, but they made twenty-three new bank monopolies. Rhode Island, in the same year, created six new banks, and New York, twelve; yes, the empire state—the state in which Mr. Van Buren received a large majority, created twelve new banks. Vermont, created one; Alabama, five; Mississippi, five; Arkansas, two; and, the little state of Michigan, with but one representative in congress, created nine banks.

Can it be possible, that a party which believes banks to be monopolies, can go on so rapidly in creating them. If banks are so ruinous to the country, can they wish to plunge the country into such immediate and irretrievable ruin? If they are honest in their belief, that banks are calculated and intended to enslave the people, then they have been traitors to their country, in participating so largely in their creation. If they really believe these institutions to be fraught with such evil consequences as they pretend, why is it, that they are not only asleep at their posts, but aiding and assisting in bringing the enemy into our camp? These institutions, which they say, are calculated to deprive the people of their liberty, they have assisted to create and cherish. They tell us, over and over again, that there is an express provision, in all the charters but one, that the charter shall be modified, altered and repealed, at the pleasure of the legislature, whenever the legislature may suppose it to come into collision with the interests of the people, and yet they insist that banks are at war with liberty and equal rights, and that they are monopolies and aristocracies.

These banks, which are so odious and dangerous, that they cannot be safely tolerated, are yet subject to the repeal and alteration of the legislature, whenever the public interest shall require it. If they are serious, why do they not begin the work of destruction, and sweep away all the little monsters? Why do they not introduce a bill, to repeal all the bank charters? They ought to do it, if they believe, as some of them pretend to do, that they are so destructive of liberty and republican principles. Why did not they do it in 1834, or last year, when they had so great a majority in the legislature? Perhaps, they think the people are not yet

sufficiently enlightened, to support them in such a measure, and that they would cast them off, and obtain the services of other representatives.

The gentleman from Luzerne I understood to say, that the legislature have the right to divest the people of any thing that they possessed: and that the title of the farmers to the land was the same, and no better, than that by which banks hold their charters in cases where there is no reservation of a right to repeal them. He said that the legislature had the right to repeal all acts of legislation, and to take any man's property for the public benefit, and that all hold their property subject to an implied right in the legislature, to take it for the public advantage. It is not necessary to attempt to controvert that doctrine, because, if it is true, there is an implied right to take all we possess, and to repeal all acts by which we hold any property. That doctrine puts an end to all protection to property. All the acts of assembly which authorize the issuing of patents for land, upon which the titles to real estate rest, may be repealed. When these acts are repealed, no man is safe in his possession of his farm. But, if it be true, on the contrary, that we have a right to possess property, then we have a right to say that our property shall be protected. We have a right to say that we shall be protected in all that we acquire honestly, and have a right to sell or dispose of it as we please. It is true that there is power inherent in the people to annul their government. It is true that there is a physical power to take property by force, but there is no such right. There is, sir, a very considerable difference between the power and the right to do a thing. In a state of nature, we have the power, or as some would say, the right, to possess ourselves of any thing that we please to take; but, in civilized society, we have a right to possess our own acquisitions, and there is no right in any one to divest us of them.

I trust that the matter of annulling charters has been sufficiently discussed, and I trust we shall get through with the amendments before us very soon. It is now clear, that if we do not make progress fast, we shall not adjourn on the day named in the resolution, which we have adopted. It is important that we should get through other business, and then if we have time left, we can devote it to this subject.

Mr. SCOTT said he would make a few remarks upon the amendment. The subject is one that we have not time fully to consider, and all the bearings of which we may not distinctly apprehend. It may be dangerous to vote at all upon an amendment which, in the course of four and twenty hours, has received three different and very important modifications from the hands of gentlemen who proposed it. I must say, that I feel embarrassed by the question, and every reflecting man must have some doubt as to the meaning and bearing of a proposition which has undergone so many and such rapid changes. No one can undertake to say what is the exact operation and full extent of the proposition and he who cannot, to his own mind, answer all the objections which arise on the second reading, ought to vote against it. The first branch of the modified amendment provides that "no corporate body shall be hereafter created, renewed, or extended with banking or discounting privileges, without six months' public notice of the application for the same, in such manner as shall be prescribed by law."

Now I will ask the gentleman from Lancaster, who proposed the

amendment, how many charters of banks, internal improvement companies, life insurances, life and marine insurances, &c. &c., are about to expire within three, four, or five years? How many charters will expire in one, two, or three years? If he cannot answer this question, it furnishes my mind with a powerful and conclusive argument against the amendment. Be it remembered that this notice is to be given in pursuance of law. Suppose the legislature shall neglect or decline to prescribe by law the manner of giving notice. Suppose successive legislatures decline to prescribe the form and manner of the notice, or suppose that the governor shall refuse his assent to laws made for the purpose, then, in what condition will be all the charters which may expire before the legislature shall make a law prescribing the manner of the notice? Every incorporated company, as soon as its charter expires, must cease to exist. In fact, if I understand the amendment—and I will not say that I do—its adoption will leave to the volition of the legislature the renewal of all charters, because no charter, according to the amendment, can be granted, revived, or renewed, without such notice as is prescribed by law. There are some charters which are not embraced in the amendment—some, over which we have not exclusive control, as they are not constituted wholly by ourselves, but in concert with adjoining states. The Chesapeake and Delaware canal company is one that was chartered by the joint action of Maryland, Pennsylvania and Delaware. The Chesapeake and Ohio canal company depends on the charters of three states. The bridges over the Delaware belong to companies chartered by two states jointly. Now, sir, as the state extends in wealth and power, such charters as these will be multiplied. If, before we have passed half a century, we have so many joint communications with the states contiguous with us, how many more shall we have hereafter? The rail roads and canals connecting our trade with New York demand our earnest attention and protection as being highly beneficial to the commerce of Pennsylvania, but, by the adoption of this amendment, we make a permanent constitutional provision under which the chartered rights of those important companies may be altered, modified, or repealed by the legislature, at their pleasure or caprice. Would the states of Maryland, Ohio, New York, Virginia, New Jersey, and Delaware, assent to such a charter? Would they bind themselves while we, as one of the parties, are left free to play fast and loose? Would any people who respect themselves assent to a compact so unequal? You would stand aloof from all your neighbors, an object of their distrust, and a state with which they can have no neighborly and mutual arrangements.

Now, where do we find in the history of Pennsylvania authority and precedent for such a course? The argument is, I know, that we find no bank charter, since 1804, granted without a clause of revocation, except only the charter of the Bank of the United States. Thus, sir, although, for twenty years, we have inserted a clause in charters which we deem important, yet we are now called upon to put a clause in the constitution to prevent the legislature from granting a charter without such a clause, under any circumstances and under any exigencies. If the legislature, at all times, had refused to make any such reservation, it would be an argument for adopting the provision, if it was thought necessary, but their past course on the subject shows that we may with propriety reserve to

them the right of granting a charter without a reservation. In the only case in which the legislature have withheld or forborne to make the usual reservation, the interests and rights of citizens of other states of the Union were concerned.

The gentleman from Luzerne says that it is competent for the legislature of Pennsylvania, at any time, when the rights of the people and the general welfare require it, to repeal a charter, whether it has an express reservation of the right of repeal or not. But if this is true, then the amendment is wholly unnecessary. I deem the doctrine, however, to be untenable. The first lesson which every parent teaches to his infant child is a rigid and inviolable adherence to truth. The first moral lesson which we teach our children is love of truth. I believe it can be implanted in the breast of a child almost before the idea of the existence of a Creator. The love of truth is the great polar star of all great moral virtues. The boy views falsehood as degradation, and when he arrives to manhood he knows no sin which society may not pardon, except a deviation from truth. Call a man a murderer, and something may be found in human infirmity to excuse him; call him coward, and something may be pardoned to his infirmity; but call him liar, and he can expect no mercy from man, woman or child. Truth is the law of God and man. When the boy goes into the legislature and there gives his promise, he wants to know how he can keep his promise, and is even more tenacious of his faith than in private life. Does he entertain an application for a charter, and does he give a clear and explicit pledge of his faith for the performance of the contract on his part, he will do it with no mental reservation or secret intention to break his faith. Suppose it be put to an individual, to choose between the loss of life and fortune on the one hand, and of honor on the other; bitter as may be the alternative, he must adhere to his word of honor. Can a commonwealth be less bound to adhere to her pledged faith than an individual? If it be intended to exert the power of violating the engagement, at pleasure, it must be an express reservation on the face of the contract itself. Then, as it has been remarked, it will be no violation, because the reservation will enter into the contract. If foreigners and citizens of other states invest their money under the faith of a charter of this commonwealth, they have a right to look to the great moral principle of good faith, as an ingredient in the contract itself.

Mr. President, I wish to say a few words more before I leave this subject. I am averse at this moment—and more so than I was at the commencement of the session of this convention—to taking any step whatever—even if it was in itself, apparently, a hopeless one, which will go to assert in the slightest degree, that we, as Pennsylvanians, are discontented with our existing corporate institutions, whether banking or otherwise. I think sir, that the whole tenor of public opinion, as it has come to us—that the general sentiment of this land, not of Pennsylvania alone, but of the whole United States—is that the moment is unpropitious for creating alarm. The time is not fitting for creating any disturbance, in relation to our money system—all our sister states are pursuing a conciliatory course and why should Pennsylvania be less careless of the interests of her citizens, than other states? Why should Pennsylvania come forward with a series of unsafe and dangerous restrictions upon her banking institutions; when all the legislative action of the states upon our

borders, lie the other way. Look at the vote of the legislature of the state of New York, where by a majority of about ninety to twenty, and that too of the very anti bank party, they have taken off the restrictions upon the banks which confined them to the issue of notes, of and above five dollars, and which now proposes to allow them to issue small notes to take the place of individual change tickets. Look to the vote in the legislature of the state of Maryland, where the same thing has occurred. Look at the public meetings in the state of Connecticut, where, as I understand, the old democratic party of the state came out and declared that their party were tired of the assaults which had been made upon corporate rights, and that the day had gone by when corporate privileges were not to be respected; where they declared that those institutions which have been so much abused, were democratic institutions; that they were intended to sustain the best interests of the country; where it was announced that the people of this land would not be stripped of their rights and their property; and where it was declared that no party could exist, which adopted this doctrine, as the basis of its action. But let me go a little farther than this to arrive at correct conclusions, and to point out to gentlemen the impropriety of agitation upon this subject, at the present time.

What, sir, is now the position of the government of the United States? You have at present a war in Florida, to be terminated heaven knows when, which is now taking the lives of your brave officers and troops, and consuming the resources of your treasury. You have a sort of a *quasi* war with Mexico; and you have a condition of things on your northern frontier, which may or may not terminate in a war with Great Britain. Well, with all this, you have a bankrupt treasury, which cannot pay a public creditor a dollar without using its own notes. You then may have a condition of things, in three months, which may send the government once more begging of the people of the United States, to advance to it their money and their property. Suppose, sir, that should be the case to-morrow. Suppose the government should be driven to the emergency of raising money where it could, for the great purposes of national defence and protection. How is the money to be had? Where is it to come from? Where are you to find citizens of the United States able to lend sufficient to answer the purposes of the government? They are not to be found. Are you to obtain it from banks? No sir,—they are rushed—they are restricted. You have gone so far as to insert a clause in the constitution, compelling them to submit to having their charter taken from them whenever it pleases the legislature to exercise that power. You compel them to submit to a modification or repeal of their charter. You have adopted these restrictions too, just at a time when they were about stepping forward to the relief of the government. Do not gentlemen see the evil tendency which this thing might have? Sir, I think it is an unpropitious moment—an unhappy hour to even hold up a finger, or to lay the weight of a feather against those institutions of our country, and more especially those which here seem to be the particular object of restrictions.

It would be better for the state of Pennsylvania, it would be better for the United States of America; and, it would be better for the people of this land, that the idea should be held out to the world that vested rights

and chartered privileges should be sacred and respected, so that persons from abroad might send in their capital and invest it confidently in our country, than to hold up to them the prospect that charters could be taken away at the will of a single legislature, and for no reason whatever. Allow me to say to the state of Pennsylvania, that she should be cautious how she tampers with the currency, so that she adopts nothing which will have a tendency to drive capital away from the citizens. If you do not hold out inducements to capitalists to continue their capital within your borders, depend upon it, there are those who will hold out inducements to them, and it will be taken away from you, when you have most need of it. If you are not careful in your efforts to keep a capital within your state, the vigorous and growing republics of the west, will stand ready to rival you and take it from you. They are thirsting for your capital, and only wait for a favorable opportunity to step in, and deprive you of the benefit of it. If you pass laws here, rendering capital unsafe, those new states will give capitalists charters on better terms, than they can be had here, and they will leave and go to other commonwealths. I will bring the convention to the knowledge of a remarkable fact, in relation to this matter, and which I beg the attention of the convention to. It is this—that already it has been ascertained that something like fifteen millions of Pennsylvania capital is now to be found invested in the western and southern states of this Union; and why is this the case? It is because that there is there better security for money—it is, because they are taxed to the uttermost farthing on their capital, as they are in this state—it is because they can send their money there, and receive a per cent. greater than they can in the state of Pennsylvania. The southern and western states, in consequence of this, are running away with our capital, and this ought to be taken seriously into consideration.

In our madness to restrict banking corporations, we ought not to forget our relations to the state of Pennsylvania, because, in this matter, they must not be considered as having the same relations to the state of Pennsylvania, as some of the farmers of Europe would have to it. It must be recollected that they are a young, a thriving and an enterprising people, who have plenty of room to invest every dollar which they can get from any source whatever. Our capital, therefore, will flow in upon them as European capital has flowed in upon us, and they will prosper by it, and we be the losers. It is then the duty of every Pennsylvanian to provide the means for the investment of every dollar in our state, which can be profitably employed. Capitalists will always invest their capital where it will be safest, and where they can make the most money out of it. If you want to keep capital in Pennsylvania, it cannot be done by placing restrictions in your constitution, which will deprive the legislature, under all circumstances, from granting charters for a longer term than a particular period, and which can be taken away by the legislature at pleasure. You should watch the course of the legislatures of other states, before you take a step, that you cannot redeem; because if this step is once taken, it is not like that of a legislature; it must stand forever, unless you have another convention to amend the constitution, and that cannot be done but at great expense and with great delay. Thus then, you destroy the capital of your state and drive it away when it is most needed. For these reasons, and others which I need not give, I hope and trust that we may

cautious and abstain from adopting any measure which we may hereafter be sorry for. We should leave this matter to be decided upon by those who are to come after us, and we ought not to bind down those who are to succeed us, to a rule which may be injurious to their interests and repugnant to their feelings. Those who are to follow us should be left to pursue that course in relation to this matter, which they think best, without that restraint which it is here proposed to impose upon them.

When we look around here, and see almost every man who is about to vote upon this question, with a grey head, and reflect, that almost every man has lived long enough to occupy the seats on this floor, which we now occupy in this hall, we should inquire what we are about to do. We should remember that we are about to tie down our own sons, the sons of our own creation, as though they were dishonest knaves, who were not to be trusted with the administration of the affairs of the commonwealth. Shall we say to them, that they are incapable of judging—

we have done for the last forty-seven years—of what was best calculated to promote the prosperity of the state.

If we have conducted the affairs of this commonwealth, from a thinly populated and feeble colony, to a great and populous state, by the wise laws we have provided for the government of our people, is it not fair to presume, that our sons will keep it in its onward course of prosperity? Why should we deprive our sons of pursuing their own course in seeking their own happiness, as we have been left to do by our own fathers? Why should we bind them up, when we have been left free? Are we to say that we are afraid to trust them, and that we doubt their powers and their ability?

Sir, this must be repugnant to the feelings of every man. I would respect the lessons of age and experience, but I would be far from believing, supposing, that our sons will be incompetent to carry on and complete the work which we have begun and carried on this long. For the sake of the commonwealth of Pennsylvania, I beg this convention to leave to future legislation, the power over this subject, which was conferred upon us by the constitution, and which we have thus long lived under, and prospered and prospered by, for the better part of fifty years.

Mr. FOULKROD asked for the yeas and nays upon the amendment, which were ordered.

Mr. FORWARD knew the anxiety there was to take this question, but he felt it to be a duty which he owed to himself and his constituents, to express his sentiments on this subject, and he did so, more for the purpose of letting his constituents know what his sentiments were, than for the purpose of convincing any member of this convention.

I, said Mr. F., object to this amendment—first, because it embraces all corporations for religious and charitable purposes. It is not limited to banks, but all corporations for religious or charitable purposes, are laid at the feet of the legislature. I put it to every man of experience, if he would give one dollar to any religious or charitable corporation, on these terms. Why, sir, no man would leave donations to any such societies, when the continuance of their charters depended entirely upon the whim and caprice of a legislative body.

If I understand this matter right, it is, that all corporations, whether for banking purposes, the making of a railroad, or canal, or for religious and charitable purposes, may be repealed or modified by the legislature. Well, sir, as I said before, would any man give a dollar upon such terms as these?

Who, sir, would endow hospitals or any other charitable institutions, when their charters might be taken away at any moment, by a party in your legislature: when a majority of one in each branch of your legislature may repeal their charter, and resume their rights and privileges? Where would you find men to leave estates to charitable institutions, when a majority of one may annul the charters of these institutions, and may do that too without compensation, for this idea of equitable compensation, named in the amendment, is all mere moon shine? Is the legislature bound to make equitable compensation by this amendment? No, sir.

Suppose they repeal a charter, and say, that no indemnity is due, where is the power to see that justice be done the institution? There is none. Then, we are here about voting for a proposition, by which every man who contributes, for charitable purposes, fifty or a hundred thousand dollars, may have his money applied to other objects, or taken away entirely, by a majority of one in your legislature. Under such circumstances as these, no man, unless he was mad or drunk, would ever think of leaving money to a charitable or literary institution.

When men of wealth leave large sums of money, for the benefit of charitable institutions, they do it because of the permanence of their charters, and because of the certainty that the money will be applied to the purposes for which it was intended by the donor; and every man who looks around this city, will see the great benefits which have resulted from institutions which have permanent charters. From the very fact, that charters of this description are perpetual, they receive thousands and thousands of dollars, which they otherwise never would receive.

Sir, these perpetual charters have been of immense benefit to this country, and I hope they will never be placed at the mercy of a party in your legislative body, for I fear, if they are, that the greatest injustice, in many cases, will be done.

My idea will be illustrated by a single remark. Suppose you have a corporation for religious purposes, and they own a large property, and the legislature takes away the charter and disposes of the property in such manner as they think proper, would not this be looked upon as an outrageous proceeding? Here is an objection to the amendment, sufficient for me and every rational man. I have, however, but stated the half of the objection.

Sir, will you not, by this amendment, be creating religious parties, and doing great injustice to religious societies of different descriptions? We will have religious parties in our legislature, and what next? Why, the next thing will be, that some religious society will be odious to this religious party in your legislature.

The Catholics, for instance, are odious to some other religious sects, and, when you have other sects in the legislature, they will repeal and annul the charters of the Catholics.

Next, the Methodists may be odious to the religious party in power, and their charters will be repealed, and thus will you go on criminating and recriminating, until parties will be excited to desperation, and disorder and revolution may ensue.

Mr. INGERSOLL. This never was the intention of the gentleman who submitted this amendment.

Mr. FORWARD. I certainly understood it in this way, after hearing it read from the the clerk's table.

Mr. INGERSOLL. I understand that this was not the intention of the gentleman who submitted the amendment, but that it was to apply only to banking corporations.

Mr. FORWARD. Then, if the gentleman had submitted an amendment which cannot be understood by one half of the convention, that is sufficient grounds for me to vote against it.

Mr. HIESTER then explained, that he had intended by this amendment to embrace all corporations of every description, and to give the legislature the power of repealing all charters.

Mr. INGERSOLL then said, that he was mistaken in what the gentleman from Lancaster had told him privately.

Mr. FORWARD said, that he was then right in the construction he had placed upon the amendment, on hearing it read by the secretary.

Mr. M'DOWELL then rose and proposed a modification of the amendment to the gentleman from Lancaster.

Mr. HIESTER said, that he was anxious to have some restrictions placed upon banking institutions, and he found that the only way to gain that end, was to yield somewhat to the opinions and views of others—to give and to take. He would, therefore, again modify his amendment, at the suggestion of the gentleman from Bucks, (Mr. M'Dowell) in order that it might conform more nearly to the views of that gentleman, and as he presumed, to the views of a majority of the convention.

Mr. H. then modified his amendment, to read as follows:

“No corporate body shall be hereafter created, renewed or extended, with banking or discounting privileges, without six months' public notice of the application for the same, in such manner as shall be prescribed by law. Nor shall any charter for the purpose aforesaid be granted for a longer period than twenty years, and every such charter shall contain a clause reserving to the legislature the power to alter, revoke and annul the same, whenever in their opinion they may be injurious to the citizens of the commonwealth. No law hereafter enacted, shall contain more than one corporate body.”

The convention then adjourned.

FRIDAY AFTERNOON, JANUARY 12, 1838.

FIRST ARTICLE.

The convention resumed the second reading of the report of the committee to whom was referred the first article of the constitution, as reported by the committee of the whole.

The question being on Mr. HIESTER's amendment, as modified, to Mr. REIGART's amendment,

Mr. FORWARD, of Allegheny, said the amendment was now submitted in a modified form, different from that in which it had previously appeared before the convention. He had asked for the adjournment, in order to see if the proposition contained any objectionable features. It was, in some respects, different from what it was this morning. But in two points, it struck him as particularly objectionable. In the proposition, as it stood this morning, there was a provision of indemnity. It secured, or affected to secure, corporate bodies against loss, in case of the repeal of their charters. That clause is not in the modification. It gives to the legislature the power of absolute repeal, for cause, or without cause. This appears to be an extremely dangerous power, and threatens, in its practice, the existence of all our institutions. It seems to be the intention to place corporate bodies as far from the pale of legislative protection as possible, and to subject them to all the changes of legislative caprice. I know this power of unconditional repeal, and it appears to me to be a most dangerous power.

This question is, at last, brought within the vortex of party. I need not inquire how this state of things has been brought upon us. But it appears that these are the institutions on which all have cast a malignant eye. There are some who are opposed to all banks whatever. They want a hard money currency. These are the persons who ask for the immediate destruction of the banks, who are active in assailing the whole system, and in striking at the root of the system. The arguments of these are in favor of restrictions, to be imposed on this floor. All their arguments are resolved into one, which, if true, ought to strike from existence every bank in the commonwealth. It was said that these corporations are all speculators and aristocrats, and that they are building up a great money interest, injurious to the laboring interests of the country. If so, these banks should be stricken from the list of corporations. It has now become a party question whether they shall be extinguished or not. All parties agreed, until the month of May last, on the question as to the state banks. Since that time, it has become a party question. It has been mixed up with our party politics, and a doubt has been raised as to the propriety of continuing them in existence. This is likely to continue to be an exciting topic. It has been made the stalking horse of party, and a cry of alarm has been sent through the community: and we shall soon find the advocates and opponents of the banking interest in the common-

wealth, constituting the grand division of party into two distinct masses, two separate political communities, and on the adverse standards will be inscribed "bank" and "no bank."

In this state of things, can any bank appear perfectly disinterested? Can it be matter of indifference that the party coming into power shall be that which has denounced the whole system? He thought not.

If this extraordinary power be reserved to the legislature, then the banks must be at the feet of the legislature, or must exercise their influence in a political direction. Whenever it becomes the interest of the banks to conciliate, they will so exercise their influence as to give preponderance to the party in their favor. If the spirit which seemed to prevail—an honest one, no doubt—in this body, were to find its way into the legislature, and influence the majority, would it not involve the breaking down of the whole system? And if parties were to make this opposition to banks the stepping stone by which to ascend to power, ought we not to pause, and reflect on the propriety—the expediency of casting this money power at the feet of the majority? A single county might give a majority in each house, and a majority thus made up, might repeal the charters of every bank in the commonwealth. Is such a contingency impossible? Is it so remote that we ought not to guard against it?

In regard to personal property; if the banks abused their power, their charters ought to be forfeited. But if their duty be faithfully performed, there should be no arbitrary power by which they can be controled or influenced in their course.

The banks should have no interest in the politics of the day, and resting in the security of their charters, they will feel no more interest in the politics of the day than the merchant or the shopkeeper. It is their sole object to make a profit of their money. Can this be done better by meddling with politics? It is not their interest to involve themselves in political squabbles. It is now their interest to keep as far aloof from politics as the merchant and manufacturer. If, on the contrary, they are to become subservient to the government, to watch the caprices of the government, to regulate their course according to the fluctuations of prejudice, they may be induced to bring their influence into the political arena. It could never conduce to the interest of the community, to bring them into the vortex of political strife.

The modification does not say that for abuses of trust this power may be exercised by the legislature. In a manner, without cause or complaint, as a thing of right, the legislature may annihilate the charters of the banks. And how would they enforce the payment of their debts? All know that the banks cannot collect their debts suddenly. The charter annihilated, every thing is thrown into confusion. This might be done, if the absolute power be vested in the legislature. And what is the argument in reply to this? That it will not be done, and we are asked, why we are so fearful of the legislature? It may be done, and such results should be placed beyond the reach of legislative power. Every thing is secure in relation to other great interests. What would be the result, if titles to lands were placed in this predicament? West of the Alleghenies would any man give half the value of lands for a title so conditioned? Why are the banks to be subjected to these conditions?

Again: banks never come within the range of politics. You never hear of them as democratic institutions. There is nothing in that, although they were created by the democratic party. They are cherished by the whole state—by both parties combined. They never have any political character. They are institutions for the people, erected for that purpose, for the common benefit of all parties. There has never been any difficulty, never any danger apprehended, until lately, and he contended that if this arbitrary power be given to the legislature, and if the banks are brought into the vortex of politics, we must at last buy their peace. On the one hand, there would be the arbitrary power. There might be the disposition to use it. What would be done?

He would say briefly, that he would put no obstacle in the way of a charter in which the interests of the people are well secured. He had no objection to the provision requiring a majority of two-thirds. A charter improperly obtained, might be abused. What would correct this? Not arbitrary power, because the banks might buy it up.

He would be willing to put in the charter a limitation of dividends. There could be no danger in that. He would be willing to limit the dividends to seven or eight per cent. He would also be willing to give right of process, in case of abuse of charter, to bring the case before the supreme court, and if the court shall decide that the charter has been abused, they shall decide the course by which the charter shall be annulled. In case of issues on the liability of the bank, he would be willing that the individual who might be interested should prove the fact. But he would not invest the legislature with an arbitrary power, which might be used to purposes of injustice to the corporations, and injury to the interests of the community.

After imposing a restriction upon the issues of the banks, and granting to the individuals, who say, that they have abused their privileges, an investigation into their concerns, you will have much better security for their proper administration, than in your legislative safety power, which will only put legislation into the hands of the banks, by causing a combination of all the banks against the legislature. Suppose a spirit of extensive speculation to be abroad, which will tempt the banks to expand their circulation, what security have you in the reservation of the right to repeal charters?—Will you then go to work and break down all the banks, or modify their charters? The proper way is to limit their issues, and limit their profits, so as to take away the temptation to excessive issues, and then give to individuals the power to sue the banks if they violate their charters; but with the plan now presented, I see nothing in prospect but a strong combination of the banks against the legislature.

The question was then taken on agreeing to the amendment to the amendment, as modified, and decided in the negative as follows:

YEAS—Messrs. Banks, Barclay, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Clarke, of Indiana, Cleavinger, Crain, Crawford, Cummin, Carl, Darrah, Dittinger, Donagan, Donnell, Doran, Earle, Fleming, Foulrod, Faller, Gamble, Gearhart, Grenell, Hastings, Hayhurst, Helffenstein, Hiecker, High, Hyde, Ingersoll, Keim, Kennedy, Krebs, Lyons, Magee, Mann, Martin, M'Dowell, Miller, Overfield, Payne, Porter, of Northampton, Purviance, Read, Rier, Ritter, Scheetz, Sellers, Seltzer, Shellito, Smith, of Columbia, Smyth, of Centre, Steriger, Stickel, Sturdevant, Taggart, Weaver, White, Woodward—62.

YAYS—Messrs. Agnew, Ayres, Baldwin, Barndollar, Barnitz, Biddle, Brown, of Lancaster, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clapp, Clarke, of Beaver, Clark, of Dauphin, Coates, Cochran, Cope, Craig, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Dunlop, Farrelly, Forward, Fry, Harris, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Hopkinson, Hout, Jenks, Kerr, Konigsmacher, Long, Maclay, M'Call, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Reigart, Royer, Russell, Saeger, Scott, Serrill, Sill, Snively, Thomas, Todd, Weidman, Young, Sergeant, *President*—62.

So the question was decided in the negative.

The amendment as offered by Mr. REIGART being under consideration,

Mr. STURDEVANT moved to amend the same, by striking therefrom all after the word "corporate," and inserting in lieu thereof the following, viz: "bodies shall hereafter be created or renewed with banking or discounting privileges, until after six months' notice thereof shall have been given in such manner as may be fixed by law; nor shall any act of incorporation embrace more than one corporate body."

Mr. DUNLOP suggested, that this was the same proposition which had been decided.

Mr. EARLE called for a division of the question.

Mr. DARLINGTON said, this appeared to him to be nothing but the proposition of the gentleman from Lancaster (Mr. Hiester) varied a little in form, and if the convention would sustain him, he would move the previous question.

The motion was seconded and, on the question "Shall the main question be put?"

The yeas and nays were required by Messrs. DORAN and DICKEY, and were as follows:

YAYS—Messrs. Agnew, Ayres, Baldwin, Barndollar, Barnitz, Bell, Biddle, Brown, of Lancaster, Chambers, Chandler of Chester, Chandler, of Philadelphia, Chauncey, Clapp, Clarke, of Beaver, Clark, of Dauphin, Coates, Cochran, Coap, Cox, Craig, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Dunlop, Farrelly, Forward, Harris, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Hout, Jenks, Kerr, Konigsmacher, Long, Maclay, M'Sherry, Meredith, Merrill, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Royer, Russell, Saeger, Scott, Serrill, Sill, Snively, Thomas, Todd, Weidman, Young, Sergeant, *President*—58

NAYS—Messrs. Banks, Barclay, Bedford, Brown, of Northampton, Brown, of Philadelphia, Bigelow, Bonham, Carey, Clarke, of Indiana, Cleavinger, Crain, Crawford, Cummin, Curl, Darrah, Dillinger, Donagan, Donnell, Doran, Earle, Fleming, Folk, J. Fry, Fuller, Gamble, Grenell, Hastings, Hayhurst, Helfenstein, Hiester, High, Hopkinson, Hyde, Ingersoll, Keim, Kennedy, Krebs, Lyons, Magee, Mann, Martin, M'Call, M'Dowell, Merkel, Miller, Overfield, Payne, Porter, of Northampton, Purviance, Reigart, Read, Riter, Ritter, Scheetz, Sellers, Seitzer, Shellito, Smyth, of Centre, Sterigere, Stickel, Sturdevant, Taggart, Weaver, White, Woodward—65.

So, the question was determined in the negative.

Mr. STURDEVANT, of Luzerne, moved to amend the amendment by striking all out after the word "corporate," and inserting "bodies shall hereafter be created or renewed with banking or discounting privileges, until after six months' notice thereof shall have been given in such manner as may be fixed by law; nor shall any act of incorporation embrace more than one corporate body."

Mr. INGERSOLL, of Philadelphia county, asked for the yeas and nays, which were ordered.

Mr. DUNLOP, of Franklin, observed that this was the most amusing device he had ever heard of in his life. We all knew that the reformers, at least, in this body, had always desired that some restriction should be imposed on the banks, but here was an attempt to restrain the legislature from acting as they might deem proper.

The provision required that six monthly notices should be given before an act of incorporation should be granted, or renewed. It was very probable that some gentlemen would go home, and say that this was to prevent a suspension of specie payments in future. Was it any restriction on banks, or banking corporations? No. If gentlemen chose to vote for the amendment, he should regard it as their scheme for regulating the currency of the state, and doubtless they would get a great deal of credit for sagacity and wisdom in giving it their support!

Mr. DICKEY, of Beaver, said he would vote for the amendment.

Mr. BELL, of Chester, remarked that he would vote against it. It contained no principle.

Mr. BROWN, of Philadelphia county, hoped the friends of reform would not vote for the amendment, nor the amendment to the amendment. The first amounted to nothing, and the last to less than nothing.

The question was taken on the amendment to the amendment, and it was decided in the negative—yeas 61; nays 66.

YEAS—Messrs. Agnew, Ayres, Baldwin, Banks, Barndollar, Barnitz, Biddle, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clapp, Clarke, of Beaver, Clark, of Dauphin, Cochran, Cope, Cox, Craig, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Dunlop, Farrelly, Forward, Harris, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Hopkinson, Jenks, Kerr, Konigsmacher, Long, Maclay, McCall, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Penny-packer, Pollock, Porter, of Lancaster, Purviance, Royer, Russell, Saeger, Scott, Serrill, Sill, Snively, Sturdevant, Thomas, Todd, Weidman, Young, Sergeant, *President*—61.

NAYS—Messrs. Barclay, Bedford, Bell, Bigelow, Bonham, Brown, of Lancaster, Brown, of Northampton, Brown, of Philadelphia, Clarke, of Indiana, Cleavinger, Coats, Crain, Crawford, Cummin, Curll, Darrah, Dillinger, Donagan, Donnell, Doran, Earle, Fleming, Faulkrod, Fry, Fuller, Gamble, Gearhart, Grenell, Hastings, Hayhurst, Helfenstein, Hiester, High, Hought, Hyde, Ingersoll, Keim, Kennedy, Krebs, Lyons, Mager, Mann, Martin, McCahen, McDowell, Miller, Nevin, Overfield, Payne, Porter, of Northampton, Reigart, Read, Riter, Ritter, Scheetz, Sellers, Seltzer, Shellito, Smith, of Columbia, Smyth, of Centre, Sterigere, Stickel, Taggart, Weaver, White, Woodward—66.

Mr. REIGART moved to modify by striking out "loaning," and inserting before "discounting" the word "or."

The modification was agreed to.

Mr. CUNNINGHAM expressed the hope that the gentleman from Lancaster (**Mr. Reigart**) would modify his proposition in some way so as to render it less exceptionable in some particulars. There was an inaccuracy of expression in the last paragraph, which he said he would not like to see introduced into a clause of the constitution. It says no corporate body shall be hereafter created, &c. without the concurrent action of two successive

legislatures. There can be no "two legislatures." There is but one "legislature," though it may hold sessions at different times. There may be two sessions of a legislature, but not "two legislatures." Does the amendment refer to any other legislature out of the state? There is but one legislature within the state. I would like to see the amendment so modified as to conform to the language of our laws. Perhaps the gentleman intends two or three legislatures, one in Pittsburg, one in Lancaster, and one in Harrisburg, neither the gentleman's amendment nor his colleagues is sufficiently definite.

Mr. REIGART. My amendment is sufficiently plain for the comprehension of any mind.

Mr. HOPKINSON moved to amend the amendment, by striking therefrom all after the word "created," and inserting in lieu thereof the following, viz: "or renewed with banking or discounting privileges without public notice having been given of the application, at least three months, in the place where such corporation is to be located, nor shall any law hereafter enacted, create or renew more than one corporate body."

This proposition, said Mr. Hopkinson, certainly does meet and obviate what are called the great evils of legislation, on the subject of corporations. It is said that applications for charters are suddenly sprung upon the legislature, when no one dreams of them. No one, it is said, knew of the intention of the Bank of the United States, to apply for a charter until the same was announced; that the people had not time to consider the question, nor to select or instruct their representatives in regard to it, and that they had no opportunity to express their sentiments upon it. This difficulty is obviated by the amendment which I propose. It brings home the subject of the proposed application for a charter to the people who are most interested in it, in the place where the corporation is to be located. The objection that charters are sprung upon the people, is thus obviated, and if the people do wish the charter, the legislature have the right to grant it. The second prominent objection to the present system is, that log-rolling is encouraged and produced by the practice of putting more than one act of incorporation in one bill. This practice I propose to prevent, by providing that no law shall hereafter create or renew more than one corporate body. It can be well understood, that when three or four corporations are put in one law, the friends of each form a majority of the whole, though neither corporation might, of itself, command a majority of votes. The amendment fully meets the two great evils which are complained of, and omits the provision of the present amendment, which requires the action of two legislatures; a provision that would be found inconvenient, and in many respects, objectionable.

Mr. BROWN, of the county of Philadelphia, hoped, he said, that the friends of reform would vote down all these small beer propositions, come they from small casks or from large casks. It would be better to have the action of two legislatures than any other provision.

Mr. HOPKINSON said, the gentleman from the county, had better have risen to give some reason against the proposition, than merely to issue his mandate to his party.

Mr. BROWN said, he only rose to express his own wishes on the subject, and he apprehended that the convention would appreciate the gentleman's argument, without any reason from him.

Mr. READ rose, he said, to answer in one word, the argument of the gentleman from the city, (Mr. Hopkinson.) There is nothing of substance in his amendment, and I hope it will not be agreed to. It will not prevent log-rolling, and it will leave the legislature at liberty to put into bills relating to any subject, a clause creating corporations.

The question was then taken on the amendment to the amendment, and determined in the negative, as follows :

YEAS—Messrs. Agnew, Ayres, Baldwin, Banks, Barndollar, Barnitz, Biddle, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Ciapp, Clarke, of Beaver, Clark, of Dauphin, Coates, Cochran, Cope, Cox, Craig, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Dunlop, Farielly, Forward, Harris, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Hopkinson, Hout, Jenks, Kerr, Konigmacher, Long, MacLay, Magee, McCall, McSherry, Meredith, Merrill, Merkel, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Royer, Russell, Saeger, Scott, Selzer, Sill, Snively, Sturdevant, Thomas, Todd, Weidman, Young, Sergeant. *President*—63.

NAYS—Messrs. Barclay, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Clarke, of Indiana, Cleavinger, Crain, Crawford, Cummin, Curl, Darrah, Dillinger, Donagan, Donnell, Doran, Earle, Fleming, Faulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hastings, Hayhurst, Heffensein, Hiester, High, Hyde, Ingersoll, Keim, Kennedy, Krebs, Lyons, Mann, Martin, M'Cahen, McDowell, Miller, Nevin, Overfield, Payne, Porter, of Northampton, Reigart, Read, Ritter, Scheetz, Sellers, Selzer, Shellito, Smith, of Columbia, Smyth, of Centre, Sterigere, Stickel, Taggart, Weaver, White, Woodward—63.

So the question was determined in the negative.

Mr. STERIGERE moved to amend the amendment by striking therefrom all after the word "legislature," and inserting in lieu thereof, the following, viz :

"And no such charter shall be created, renewed or continued for a longer period than ——— years, and every such charter may be altered or repealed by the legislature, whenever in their opinion the same may be injurious to the citizens of the commonwealth. No law shall contain a grant of privileges to more than one corporation."

Mr. BELL said, that it was perfectly obvious, that, although a majority of the body was in favor of introducing into the constitution, some restrictions of the legislature in relation to banks, and the power of the legislature to grant bank charters ; it was also obvious that the friends of that principle must so mould their proposed amendments, that even captiousness cannot take offence at them, nor ingenuity raise objections to them. He had, therefore prepared an amendment which he thought would meet the views of a majority of the members of the house. He did not object to the features of the amendment before the convention ; but, because he believed it was not acceptable to a majority of the members of the body, as was evident by the various votes which had been taken, he asked the gentleman who had introduced it, as a reformer, and as a gentleman desirous of engrafting some such provision upon the constitution, whether it was prudent to push upon the convention a proposition which it must be known, would not meet the views and receive the sanction of a majority of the members of the body. He would not ask the gentleman, who had submitted the last proposition, to withdraw it, before he laid it before him for his consideration, an amendment which he (Mr. B.) flattered

himself. would meet the views of a majority of this body. If (said Mr. B.) after the proposition is submitted, the gentleman still persists in having a vote upon his own amendment, I have nothing further to say, as I only submit it to him as a question of propriety and expediency. The proposition I propose to submit, is in the following words :

“ And any act hereafter passed, creating or continuing such corporation, may be repealed, altered or modified by any law, passed by any succeeding legislature. Provided, that when any such act shall be repealed, or any of the corporate privileges resumed, adequate compensation shall be made to the corporators, but such privileges shall continue until such compensation shall have been made.”

In addition to this, I have but one other remark to make, and that is this, that I have submitted this amendment to one or two gentlemen, who have heretofore been against the general principle contained in this proposition, but they expressed themselves as satisfied with this, and said they would record their votes in its favor, when it should be introduced here. This consideration, he thought, ought to weigh some thing with the gentleman from Montgomery.

Mr. BROWN, of the county of Philadelphia, proposed fifteen years, as a suitable time to be inserted in the blank in the amendment.

Mr. STERIGER then modified his amendment by filling the blank with the word “fifteen.” In reply to the gentleman from Chester (Mr. Bell) he would only say, that he thought it would be beyond the ingenuity of any member of this convention to say what would meet the approbation of a majority of the body, until the vote was taken, which was to test it. He did not believe that the gentleman had sufficient information on the subject, to warrant him in saying that his proposition would meet the views of a majority of the convention.

There had been a number of propositions submitted to the consideration of the body which some gentlemen believed would pass at the time they were submitted, but time proved that their opinions were ill founded. The amendment which he had just now submitted, contained principles which he thought ought to satisfy every gentleman here, who was desirous to have some amendment to the constitution on this subject. It contained all the principles of the proposition proposed by the gentleman from Chester, with the exception of the latter clause of his amendment, or the provision, and if it meets the approbation of a majority of the convention, such a provision may be inserted in it after it is adopted. As the gentleman's amendment contained all the principles of the amendment submitted, excepting the proviso, he (Mr. S.) would have accepted of it, but that he feared it might not meet the views of a majority of the body ; if, however, it did meet the views of a majority, it could be afterwards inserted. For these reasons, he thought it better not to accept of it, but he would now say that if the gentleman afterwards proposed it, that he would give it his vote.

Mr. DICKEY thought that the convention must now be satisfied, that unless we terminate this discussion by the previous question, we cannot get through with our labors by the second of February, the day fixed for the final adjournment of the convention. He, therefore, again moved the previous question, which was seconded by eighteen members.

Mr. DARRAH called for the yeas and nays, on ordering the main question—which were ordered; and were, yeas 61, nays 65; as follows:

YEAS—Messrs. Agnew, Ayres, Baldwin, Barndollar, Barnitz, Biddle, Brown, of Lancaster, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clapp, Clarke, of Beaver, Clark, of Dauphin, Coates, Cochran, Cope, Cox, Craig, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Dunlop, Farrelly, Forward, Harris, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Haupt, Jenks, Kerr, Konigsmacher, Long, Mac'ay, M'Call, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Royer, Russell, Saeger, Scott, Serrill, Sill, Snively, Sturdevant, Thomas, Todd, Weidman, Young, Sergeant, *President*—61.

NAYS—Messrs. Banks, Barclay, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Clarke, of Indiana, Cleavinger, Crain, Crawford, Cummin, Cull, Darrah, Dillinger, Donagan, Donnell, Doran, Earle, Fleming, Foulkrod, Fry, Fuller, Gamble, Gerheart, Gilmore, Grenell, Hastings, Hayhurst, Helfenstein, Hiester, High, Hyde, Ingersoll, Keim, Kennedy, Krebs, Lyons, Magee, Mann, Martin, M'Cahen, M'Dowell, Miller, Nevin, Overfield, Payne, Porter, of Northampton, Reigart, Read, Riter, Ritter, Scheetz, Sellers, Seltzer, Shellito, Smith, of Columbia, Smyth, of Centre, Sterigere, Stickel, Taggart, Weaver, White, Woodward—65.

So the convention refused to order the main question to be put.

The question recurring on the motion of **Mr. STERIGERE**, as follows, viz:

To amend the amendment by striking therefrom all after the word "legislature," and inserting in lieu thereof the following, viz:

"And no such charter shall be created, renewed or continued for a longer period than fifteen years, and every such charter may be altered or repealed by the legislature, whenever, in their opinion, the same may be injurious to the citizens of the commonwealth. No law shall contain a grant of privileges to more than one corporation."

Mr. INGERSOLL asked for the yeas and nays on this question, and the yeas and nays were ordered.

The question was then taken, and decided in the negative, as follows, viz:

YEAS—Messrs. Banks, Barclay, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Clarke, of Indiana, Cleavinger, Crain, Crawford, Cummin, Cull, Darrah, Dillinger, Donagan, Donnell, Doran, Earle, Fleming, Foulkrod, Fry, Fuller, Gamble, Gerheart, Gilmore, Grenell, Hastings, Hayhurst, Helfenstein, Hiester, High, Hyde, Ingersoll, Keim, Kennedy, Krebs, Lyons, Magee, Mann, Martin, M'Cahen, M'Dowell, Miller, Nevin, Overfield, Payne, Porter, of Northampton, Read, Riter, Ritter, Scheetz, Sellers, Shellito, Smith, of Columbia, Smyth, of Centre, Sterigere, Stickel, Taggart, Weaver, White, Woodward—63.

NAYS—Messrs. Agnew, Ayres, Baldwin, Barndollar, Barnitz, Biddle, Brown, of Lancaster, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clapp, Clarke, of Beaver, Clark, of Dauphin, Coates, Cochran, Cope, Cox, Craig, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Dunlop, Farrelly, Forward, Harris, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Hopkinson, Haupt, Jenks, Kerr, Konigsmacher, Long, Mac'ay, M'Call, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Reigart, Royer, Russell, Saeger, Scott, Seltzer, Serrill, Sill, Snively, Sturdevant, Thomas, Todd, Weidman, Young, Sergeant, *President*—64.

A motion was made by Mr. BELL,

To amend the amendment by striking therefrom all after the word "legislature," and inserting in lieu thereof the following, viz :

" And any act, hereafter passed, creating or continuing such corporation may be repealed, altered or modified by any law passed by any succeeding legislature, provided that when any such act shall be repealed, or any of the corporate privileges resumed, adequate compensation shall be made to the corporators ; but such privileges shall continue until such compensation shall have been made."

And, the said amendment to the amendment, being under consideration,

A motion was made by Mr. BELL,

That the convention do now adjourn,

Which was disagreed to.

And on the question,

Will the convention agree to the amendment to the amendment ?

The yeas and nays were required by Mr. BELL and Mr. SMYTH, of Centre, and are as follow. viz :

YEAS—Messrs. Barclay, Bedford, Bell, Bigelow, Bonham, Chambers, Cleavinger, Crain, Crawford, Dillinger, Donagan, Earle, Fleming, Foulkrod, Gearhart, Grenell, Hastings, Hayhurst, Heffenstein, Hiester, Keim, Krebs, Lyons, Magee, Mann, Martin, Merrill, Miller, Nevin, Payne, Read, Riter, Ritter, Scheetz, Sellers, Shellito, Smyth, of Centre, Sterigere, Stickel, Taggart, Weaver, White, Woodward—43.

NAYS—Messrs. Agnew, Ayres, Baldwin, Banks, Barndollar, Barnitz, Biddle, Brown, of Lancaster, Brown, of Philadelphia, Carey, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clapp, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Coates, Cochran, Cope, Cox, Craig, Crum, Cummin, Cunningham, Curl, Darlington, Denny, Dickey, Dickerson, Donnell, Doran, Dunlop, Farrelly, Fry, Fuller, Gilmore, Harris, Hays, Henderson, of Allegheny, Henderson, of Dauphin, High, Hopkinson, Hout, Hyde, Ingersoll, Jenks, Kennedy, Kerr, Konigsmacher, Long, Maclay, M'Cahen, M'Call, M'Dowell, M'Sherry, Meredith, Merkel, Montgomery, Overfield, Pennypacker, Pollock, Porter, of Lancaster, Porter, of Northampton, Reigart, Royer, Russell, Saeger, Scott, Seltzer, Serrill, Sill, Snively, Sturdevant, Thomas, Todd, Weidman, Young, Sergeant, *President*—79.

So the question was determined in the negative.

Mr. PORTER, of Northampton, moved to amend the amendment by striking out the whole section and inserting in lieu thereof the following :
" No charter of incorporation for a bank, shall be granted for a term exceeding fifteen years, nor shall the same be granted when the capital exceeds two millions."

Mr. PORTER said this was the provision reported by the minority of the committee on the ninth article, and he was inclined to offer it, not supposing that it was in the right place, but that it was such a provision, as the people wished to see incorporated in the law of the state. It is one of a series of propositions which we offered for the purpose of preventing log-rolling, and which we reported as section twenty-ninth.

Mr. DICKEY said the proposition was not the same in substance, nor in words, as the amendment of the gentleman from the county, and he asked the yeas and nays upon it.

Mr. FRY moved to postpone the question before the Chair, until he moved a reconsideration of the vote on the amendment to the amendment of the gentleman from Lancaster.

Mr. MERKEL seconded the motion.

The question was then taken,

"Will the convention reconsider the vote of this afternoon, on the amendment to the amendment, in the words following, viz :

"No corporate body shall be hereafter created, renewed, or extended with banking or discounting privileges, without six months' public notice of the application for the same, in such manner as shall be prescribed by law. Nor shall any charter, for the purposes aforesaid, be granted for a longer period than twenty years; and every such charter shall contain a clause, reserving to the legislature the power to alter, revoke, and annul the same, whenever, in their opinion, they may be injurious to the citizens of the commonwealth. No law hereafter enacted shall contain more than one corporate body."

The question was decided in the affirmative—yeas, 66; nays, 61; as follow :

YEAS—Messrs. Banks, Barclay, Belford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Clarke, of Indiana, Cleavinger, Craip, Crawford, Cummin, Curll, Darrah, Dillinger, Donagan, Donnell, Doran, Earle, Fleming, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hastings, Hayhurst, Helfenstein, Hester, High, Hyde, Ingersoll, Keim, Kennedy, Krebs, Lyons, Magee, Mann, Martin, M'Cahen, M'Dowell, Meikel, Miller, Nevin, Overfiell, Payne, Porter, of Northampton, Read, Ritter, Ritter, Scheetz, Sellers, Selzer, Shellito, Smith, of Columbia, Smyth, of Centre, Sterigere, Stickel, Sturdevant, Taggart, Weaver, White, Woodward—66.

NAYS—Messrs. Agnew, Ayres, Baldwin, Barndollar, Barnitz, Biddle, Brown, of Lancaster, Carey, Chambers, Chandler, of Chester, Chundler, of Philadelphia, Chauncey, Clapp, Clarke, of Beaver, Clark, of Dauphin, Coates, Cochran, Cope, Cox, Craig, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Dunlop, Farrelly, Forward, Harris, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Hopkinson, Hout, Jenks, Kerr, Konigsmacher, Long, Maclay, M'Call, M'Sherry, Meredith, Merrill, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Reigart, Royer, Russell, Saeger, Scott, Serrill, Sill, Snively, Thomas, Todd, Weidman, Young, Sergeant, *President*—61.

So the convention agreed to reconsider the vote.

Mr. REIGART withdrew his amendment.

Mr. HIESTER renewed his proposition to amend, as an original section.

Mr. REIGART renewed his motion to amend the amendment.

Mr. BIDDLE moved that the convention do now adjourn—ayes 41.

Mr. BIDDLE asked for the yeas and nays on his motion, and a sufficient number rising to sustain the call, the yeas and nays were ordered.

Mr. DICKEY moved to postpone the argument, together with the amendment, for the present. While up, he would take the liberty of saying a few words to the gentleman, in addition to those he had already said.

Three days had been occupied in the consideration and discussion of the amendment, by delegates on both sides of the house; and, finally, the amendment of the gentleman from Lancaster was reversed. He thought that the business of the convention would be greatly facilitated by postponing the further consideration of this question, until the seventh article was reached, for, by that time, all the amendments would be printed, and an opportunity have been given to examine, and carefully consider them.

He regarded this course of proceeding, as absolutely requisite and proper, inasmuch as the proposition immediately under consideration, particularly, had undergone so many modifications. Notwithstanding, that the object of the amendment was to prevent hasty legislation, yet gentlemen were found legislating here, for suavity, in this hasty and inconsiderate manner! He knew not what sort of legislation they considered it——

[Here two or three members called out for the delegate to speak louder, although he was speaking in a most audible tone.]

Mr. D. continued. He entertained no doubt that some gentlemen had heard more than they could desire to hear. But, if they had not heard, there were some who had——

The PRESIDENT said, that this was the second time he had heard a call for the delegate to speak louder. This was such a breach of order, as if not put an end to, must result in the breaking up of this assembly.

Mr. D. proceeded. He was aware that he spoke in a strain which could not be very pleasant to some gentlemen. He was quite sure that he told truths they did not like to hear. He trusted that the convention would agree to postpone the further consideration of the amendment now under consideration. At any rate, he deemed it his duty to call for the yeas and nays, in order to let the people see who those were that were in favor of voting on the amendments without their being first printed, so that delegates could have an opportunity of seeing exactly what they were. He asked for the yeas and nays.

Mr. FULLER, of Fayette, said he was opposed to the postponement, and that he had risen to suggest to the gentleman from Lancaster, the propriety of amending his amendment, by inserting the words "or renewed."

Mr. REIGART could not accept the suggestion, and should therefore decline to modify his amendment.

The question was then taken on the motion to postpone the further consideration of the amendment for the present, and it was decided in the negative—yeas 60; nays 67; as follow:

YEAS—Messrs. Agnew, Ayres, Baldwin, Barndollar, Barnitz, Biddle, Brown, of Lancaster, Carey, Chambers, Chanler, of Chester, Chandler, of Philadelphia, Chauncey, Clapp, Clarke, of Beaver, Clark, of Dauphin, Cates, Cochran, Cope, Cox, Craig, Crum, Cunningham, Darlington, Donny, Dickey, Dickerson, Dunlop, Farrally, Forward, Harris, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Hopkinson, Jenks, Kerr, Kougmacher, Long, Maclay, McCall, M'Sherry, Meredith, Merrill, Montgomery, Payne, Pennypacker, Pollock, Porter, of Lancaster, Royer, Russell,

Seager, Scott, Serrill, Sill, Snively, Thomas, Todd, Weidman, Young, Sergeant, *President*—60.

NAYS—Messrs. Banks, Barclay, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Clarke, of Indiana, Cleavinger, Crain, Crawford, Cummin, Curll, Darrah, Dillinger, Donagan, Donnell, Doran, Earle, Fleming, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hastings, Hayhurst, Helfenstein, Hiester, High, Houpt, Hyde, Ingersoll, Keim, Kennedy, Krebs, Lyons, Magee, Mann, Martin, M'Cahen, M'Dowell, Merkel, Miller, Nevin, Overfield, Porter, of Northampton, Reigart, Read, Riter, Ritter, Scheetz, Sellers, Seltzer, Shellito, Smith, of Columbia, Smyth, of Centre, Sterigere, Stickel, Sturdevant, Taggart, Weaver, White, Woodward—67.

Mr. EARLE said, he wished to ask a question of the delegate from Lancaster, (Mr. Reigart) touching a matter of very great importance. There had been a bill before the New York legislature, the object of which was to create a general banking law—to regulate the amount of the issues of the several banks throughout the state. Its provisions, in fact, were of a similar character to those of the general banking law, which had been established in England and Scotland, and recently, also, in the state of Michigan. Knowing, then, as he (Mr. Earle) did, that a majority of the neighboring states were in favor of such a regulation, all that he desired to learn from the delegate was, whether it was his intention to prohibit, by the constitution, the adoption of a general banking law, if the legislature should deem it necessary for the public good?

Mr. REIGART replied, that if such an act were to be passed by two successive legislatures, it would not be effected by his amendment.

Mr. EARLE remarked, that he was not understood exactly by the gentleman from Lancaster. What he wished to know was, whether the delegate desired to place in the constitution, a provision against the adoption, by the legislature, or the courts, of any such law, as he had mentioned?

Mr. SCOTT, of Philadelphia, said there was a good deal in the suggestion of the gentleman (Mr. Earle.) Already had doubts arisen in the minds of delegates, in reference to the interpretation which might be put upon the amendment. Hence, the danger was apparent of adopting so important a provision, without a more full and deliberate examination and discussion of it. He thought that those gentlemen who had manifested such a great desire to bring the present debate to a termination, ought, under existing circumstances, and in a spirit of kindness to others, whose minds were not made up, to allow them a little more time for reflection. It behooved gentlemen not to lose sight of the fact, that this convention was assembled to make amendments to the constitution, and which amendments might be in operation for fifty years to come. How important was it then, that every delegate should be prepared to give his vote, and not be called upon to do so before he was?

Mr. KONIGMACHER, of Lancaster, moved that the convention adjourn. *Lost.*

Mr. INGERSOLL, of Philadelphia, asked for the yeas and nays on the amendment.

The question was then taken on agreeing to the amendment, and it was decided in the negative—yeas 43; nays 84; as follow:

YEAS—Messrs. Ayres, Bigelow, Carey, Cochran, Craig, Crawford, Cummin, Cunningham, Dickerson, Dillinger, Fleming, Forward, Fry, Gamb'e, Gearhart, Gremell, Hyde, Jenks, Keim, Kennedy, Kerr, Krebs, Lyons, Mann, M'Cahen, M'Call, M'Sherry, Merrill, Miller, Nevin, Overfield, Reigart, Read, Riter, Royer, Schantz, Sellers, Seltzer, Smyth, of Centre, Taggart, Weaver, White, Young—43.

NAYS—Messrs. Agnew, Baldwin, Banks, Barclay, Barndollar, Barnitz, Bedford, Bell, Biddle, Bonham, Brown, of Lancaster, Brown, of Northampton, Brown, of Philadelphia, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clapp, Clarke, of Beaver, Clark, of Dauphin, Carke, of Indiana, Cleavinger, Coates, Cope, Cox, Crain, Crum, Curil, Darlington, Darrah, Denny, Dickey, Donagan, Donnell, Doran, Dunlop, Earle, Farrelly, Foulkrod, Fuller, Gilmore, Harris, Hastings, Hayhurst, Hays, Helffenstein, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, High, Hopkinson, Haupt, Ingersoll, Konigsmacher, Long, Macley, Magee, Martin, M'Dowell, Meredith, Merkel, Montgomery, Payne, Pennypacker, Pollock, Porter, of Lancaster, Porter, of Northampton, Ritter, Russell, Sager, Scott, Serrill, Shellito, Sill, Smith, of Columbia, Snively, Sterigere, Stickel, Sturdevant, Thomas, Todd, Wiedman, Woodward, Sergeant, *President*—84.

Mr. KONIGSMACHER moved to amend the amendment, by striking out all after the word "section," and inserting in lieu thereof, the following:

"The legislature shall not hereafter grant any charter of incorporation, for banking purposes, without providing adequate restrictions upon their issues and dividends, nor without three months' previous notice of the application thereof, being first published in the county where the bank is to be located."

And on the question,

Will the convention agree so to amend the amendment?

The yeas and nays were required by Mr. KONIGSMACHER and Mr. CAREY, and are as follow, viz:

YEAS—Messrs. Carey, Chambers, Chandler, of Chester, Clapp, Clarke, of Beaver, Coates, Cox, Craig, Crum, Cunningham, Darlington, Denny, Dunlop, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Jenks, Konigsmacher, Macley, M'Call, M'Sherry, Merrill, Pollock, Porter, of Lancaster, Royer, Russell, Sager, Scott, Sill, Snively, Thomas, Todd, Young—33.

NAYS—Messrs. Agnew, Ayres, Baldwin, Banks, Barclay, Barndollar, Barnitz, Bedford, Bell, Biddle, Bigelow, Bonham, Brown, of Lancaster, Brown, of Northampton, Brown, of Philadelphia, Chandler, of Philadelphia, Chauncey, Clark, of Dauphin, Clarke, of Indiana, Cleavinger, Cochran, Cope, Crain, Crawford, Cummin, Curil, Darrah, Dickey, Dillinger, Donagan, Donnell, Doran, Earle, Fleming, Forward, Foulkrod, Fry, Fuller, Gamb'e, Gearhart, Gilmore, Harris, Hastings, Hayhurst, Helffenstein, Hiester, High, Hopkinson, Haupt, Hyde, Ingersoll, Keim, Kennedy, Krebs, Lyons, Magee, Mann, Martin, M'Cahen, M'Dowell, Meredith, Merkel, Miller, Montgomery, Nevin, Overfield, Payne, Porter, of Northampton, Reigart, Read, Riter, Ritter, Schantz, Sellers, Seltzer, Serrill, Shellito, Smith, of Columbia, Smyth, of Centre, Sterigere, Stickel, Taggart, Weaver, Weidman, White, Woodward, Sergeant, *President*—87.

So the question was determined in the negative.

Mr. AGNEW moved to amend the amendment, by striking therefrom all after the word "section," and inserting in lieu thereof, the following, viz:

"No bank charter shall hereafter be granted or renewed, unless three months' notice thereof, in manner to be prescribed by law, shall have been

first given; not more than one bank charter shall be granted or renewed in one law. No bank charter shall endure for a longer period than twenty years, unless continued or renewed."

Which was disagreed to.

Mr. MEREDITH said, he was struck with the amendment which had been offered by the gentleman from Fayette, (Mr. Fuller) and he was sorry to see that gentleman afterwards withdraw it. He was so much pleased with the provisions of that amendment, that with a very slight alteration, he should be pleased to see it adopted. With a view of bringing it before the convention, he had taken it almost verbatim as it had been offered by the gentleman, making a very slight change in one part of it, and he now submitted it, hoping that it might be adopted by the convention.

Mr. M. then moved to strike out all after the word "section," and insert the following:

"No corporate body shall be hereafter created or renewed, with banking or discounting privileges, unless proof shall be made to the satisfaction of the legislature, that six months' public notice shall have been given of the application for the same; nor shall any corporate body, with banking or discounting privileges, be hereafter created or renewed, for a longer period than twenty years; nor shall any one law hereafter enacted, provide for the creation or renewal of more than one corporate body."

Mr. MEREDITH called for the yeas and nays on this amendment, which were ordered.

Mr. BROWN: I hope that this, and all other amendments may be rejected, until we get back to that which we have been trying all day to get a vote upon.

Mr. COX: I congratulate the honorable members of this convention, on having so able and efficient a drill-sergeant, as the gentleman from the county of Philadelphia.

Mr. KEIM would like to know, if the amendment proposed by the gentleman from the city of Philadelphia, contained any clause in relation to the repeal of charters, because if it did not, he could not vote for it.

Mr. FULLER: I will merely state that I will not vote for this last amendment, because it is not now before the convention as I first offered it, having been altered in some essential particulars.

The question was then taken on Mr. MEREDITH's amendment, and decided in the negative—yeas 62; nays 64; as follow:

YEAS—Messrs. Agnew, Ayres, Baldwin, Barndollar, Barnitz, Biddle, Brown, of Lancaster, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clapp, Clarke, of Beaver, Clark, of Dauphin, Coates, Cochran, Cope, Cox, Craig, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Dunlop, Farrelly, Fleming, Forward, Harris, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Hopkinson, Jenks, Kerr, Konigsmacher, Long, Maclay, McCall, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Reigart, Royer, Russell, Seager, Scott, Serrill, Sill, Snively, Thomas, Todd, Weidman, Young, Sergeant, *President*—62.

NAYS—Messrs. Banks, Barclay, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Clarke, of Indiana, Cleavinger, Crain, Crawford, Cummin, Curll, Darrah, Dillinger, Donagan, Donnell, Doran, Earle, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hastings, Hayhurst, Helfenstein, Hiester, High, Houpt, Hyde, Ingersoll, Kelm, Kennedy, Krebs, Lyons, Magee, Mann, Martin, M'Cahen, M'Dowell, Miller, Nevin, Overfield, Payne, Porter, of Northampton, Read, Riter, Ritter, Scheetz, Sellers, Seltzer, Shelito, Smith, of Columbia, Smyth, of Centre, Sterigere, Stickel, Taggart, Weaver, White, Woodward—64.

Mr. CRAIG then offered the following, to come in at the end of the amendment of the gentleman from Lancaster:

“ Provided, That in case of any bank charter being repealed by the legislature, as aforesaid, the damages sustained by said corporation shall be ascertained and liquidated, by appraisers mutually chosen by the state and the corporation, and paid by the state.”

Mr. CRAIG begged leave to make one or two observations in support of the proviso, which he had submitted. He had viewed the amendment of the gentleman from Lancaster, as being very defective in this particular, it making no provision for allowing any thing as damages to a corporation, or to the corporators, no matter how unjustly their charter may have been seized upon and taken away. There are but two cases in which charters would be likely to be taken away by the legislature, and, in neither case, would there likely be any injustice done to the state from the adoption of this proviso. The first is a case where a bank may be mismanaged by its directors. In that case, the legislature would take away the charter, without any injustice to the state or the people, and, in that case, he thought there was no danger of the state having to pay any damages under this proviso: because it would be no damage to the corporators to resume such a charter.

It may be that a bank that is mismanaged, will be profitable to those who have the immediate management of it, but it is very certain that it is not profitable to the stockholders and corporators. In such cases then the state would never have to pay any damages. The other case which he had alluded to, was a case where the state ought to pay damages. This case was one which might occur and which had been mentioned by the gentleman from Allegheny, and explained in such manner that he need now only refer to it, to attract the attention of every member of the convention. This case was a case where a powerful political party in the legislature may take up an enmity to some particular banking institutions, which may perhaps have incurred the enmity of the party, because it had refused to make a loan to some influential politician, or had refused to make an appointment in the bank, of a member of the dominant party. Well, this party having the governor on their side, may be unjust enough, under the heated political feeling of the day, to take away the charter of this bank, and a legislature which would act so unjustly as to take away a bank charter without any sufficient reason, would not be very likely, to allow such bank a just compensation for the privileges they had resumed. For this reason, he wished to keep it out of the power of the legislature to say what the damages, in such cases, should be allowed. He hoped that gentlemen would see the propriety of adopting some such amendment as this, if not in the shape he had now offered it, in some other shape embracing the

same principle which it contained. He would not now detain the convention longer, by any remarks in support of this proposition, but hoped that gentlemen would see the propriety and the justice of an amendment of this kind.

Mr. CRAIG then called for the yeas and nays on his amendment, which were ordered; and were yeas 52, nays 72.

YEAS.—Messrs. Baldwin, Barndollar, Biddle, Brown, of Lancaster, Carey, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clarke, of Beaver, Clark, of Dauphin, Coates Cochran, Cope, Craig, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Dunlop, Farrelly, Forward, Harris, Hays, Henderson, of Dauphin, Hopkinson, Houpt, Jenks, Kerr, Konigsmacher, Long, Maclay, M'Call, M'Sberry, Meredith, Merrill, Merkel, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Reigart, Royer, Russell, Sarger, Scott, Serrill, Sill, Thomas, Todd, Young, Sergeant, *President*—52.

NAYS.—Messrs. Agnew, Ayres, Banks, Barclay, Barnitz, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Chambers, Clapp, Clarke, of Indiana, Cleavinger, Cox, Crain, Crawford, Cummin, Curll, Darrab, Dillinger, Donagan, Donnell, Doran, Earle, Fleming, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hastings, Hayhurst, Helffenstein, Henderson, of Allegheny, Heister, High, Hyde, Ingersoll, Keim, Kennedy, Krebs, Lyons, Magee, Mann, Martin, M'Cahen, M'Dowell, Miller, Niven, Overfield, Payne, Porter, of Northampton, Read, Rier, Ritter, Scheetz, Sellers, Seltzer, Shellito, Smith, of Columbia, Smyth, of Centre, Sterigere, Stuckel, Sturdevant, Taggart, Weaver, White, Woodward—72.

So the proviso was rejected.

Mr. M'CALL moved that the convention do now adjourn, which was disagreed to,—ayes 55, noes 57.

Mr. RUSSELL, moved to amend the amendment, by strikingt herefrom all after the word "section," and inserting in lieu thereof the following, viz:

"The legislature shall hereafter grant no charter of incorporation until after five months' public notice of the application for the same shall have been given, in such manner, as shall be prescribed by law. Nor shall any corporation hereafter to be created with banking privileges, be continued for more than twenty years, without a renewal of its charter, neither shall any corporation be hereafter created or revived without the insertion of a clause providing that its charter may be modified, altered or repealed, by the concurrent action of two successive legislatures, accompanied with such indemnification as by the said two successive legislatures shall be deemed just and equitable, nor shall any one act of assembly grant more than one charter of incorporation."

Mr. INGERSOLL asked for the yeas and nays, and a sufficient number rising to sustain the call, they were ordered.

The question was taken on agreeing to the motion, and decided in in the negative, as follows:

YEAS.—Messrs. Barndollar, Carey, Dunlop, Hayes, Houpt, Mann, M'Cahen, Merrill, Merkel, Pennypacker, Royer, Russell, Smith, of Columbia—13.

NAYS.—Messrs. Agnew, Ayres, Baldwin, Banks, Barclay, Barnitz, Bedford, Bell, Biddle, Bigelow, Bonham, Brown, of Lancaster, Brown, of Northampton, Brown, of Philadelphia, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clapp, Clarke, of Indiana, Coates, Cochran, Cope, Cox, Crain, Crawford, Crum, Cummin, Cunningham, Curll, Darlington, Darrab, Denny, Dickey, Dickerson

Dillinger, Donagan, Donnell, Doran, Earle, Fleming, Foulkrod, Fry, Fuller, Gamble, Gilmore, Grenell, Harris, Hastings, Hayhurst, Helffenstein, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, High, Hyde, Ingersoll, Jenks, Kennedy, Konigsmacher, Krebs, Long, Lyons, Maclay, Magee, M'Call, M'Dowell, M'Sherry, Miller, Montgomery, Niven, Overfield, Payne, Pollock, Porter, of Lancaster, Porter, of Northampton, Reigart, Read, Ritter, Ritter, Saeger, Scheetz, Scott, Sellers, Seltzer, Serrill, Shellito, Sill, Smyth, of Centre, Snively, Sterigere, Stickel, Sturdevant, Taggart, Thomas, Weaver, Weidman, White, Woodward, Sergeant, *President*—100.

Mr. CAREY said it was evident that the convention was not in a state to act understandingly on the subject, and he moved an adjournment—which was lost.

Mr. DUNLAP moved to amend the amendment, by striking therefrom all after the word "section," and inserting in lieu thereof the following, viz:

"That the legislature in creating banking incorporations, shall so restrict them, that their cash liabilities shall at no time exceed six times the amount of their coin and bullion; and that no new bank shall hereafter be incorporated, except by the consent of the legislature, at two several sessions."

The amendment being under consideration,

Mr. DUNLAP moved an adjournment, which was not agreed to.

Mr. DUNLAP said, he considered this vote as an indication of a disposition on the part of the convention to hear him speak, and a call from such a quarter was too complimentary to be resisted. Sir, if a stranger should come into this convention and be informed that we, a grave body of intelligent men, were voting upon all manner of propositions, without knowing what they were, he would be somewhat surprised. We are here voting down all propositions, whether right or wrong. The proposition which I have now offered, I consider as one which deserves the consideration of every reformer in the house. It goes to remedy all the evils which have been complained of by gentlemen on that side. The first complaint is, that there are too many banks, and the second, that there is too much paper issued by the banks. Now, my proposition goes to the restriction of the evil in both particulars. We have it from official documents, that our banks issue from fifteen to sixteen dollars in paper, for one in specie. The proportion is now reduced to four and a half, for one in specie. When business generally is revived, and confidence is restored, a fresh issue will take place.

How are the bank issues to be curtailed and kept within due bounds? In no way so well as by limiting their cash liabilities, by refusing them permission to issue more than the amount of their coin and bullion. The effect of the amendment which I propose, can be easily understood. The proposition goes to correct the whole evil complained of. It strikes me as very surprising that the reformers are not anxious to embrace a proposition which so fully accords with their own views. I am anxious to have their votes recorded on this amendment, in order to shew that in reality, they are anxious to keep up the disproportion between the issues of the banks and their specie on hand. There is no other way to restrict the banks and obviate the evils resulting from them, and from legislation in regard to them, than to impose this restriction on the banks, and to require that no charter shall be granted, except with the concurrence of

the legislature at two successive sessions. I do not desire to detain the committee. All I ask is the consideration and serious examination of the project, in order that we may correct the evils complained of.

The question was then taken on the amendment, and it was decided in the negative, as follows :

YEAS—Messrs. Ayres, Baldwin, Brown, of Lancaster, Cochran, Cope, Cox, Cunningham, Denny, Dunlop, Hays, Henderson, of Dauphin, Houpt, M'Call, Meredith, Merrill, Reigart, Royer, Russell, Snively—19.

NAYS—Messrs. Agnew, Banks, Barclay, Barndollar, Barnitz, Bedford, Bell, Biddle, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Clarke, of Beaver, Clarke, of Indiana, Cleavinger, Coates, Crain, Crawford, Crum, Cummin, Curll, Darlington, Darrah, Dillinger, Donagan, Donnell, Doran, Earle, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Harris, Hastings, Hayhurst, Helfenstein, Henderson, of Allegheny, Hiester, High, Hopkinson, Hyde, Ingersoll, Jenks, Keim, Kennedy, Konigmacher, Krebs, Long, Lyons, Maclay, Magee, Mann, Martin, M'Cahen, M'Dowell, M'Sherry, Merkel, Miller, Montgomery, Nevin, Overfield, Payne, Pollock, Porter, of Lancaster, Porter, of Northampton, Read, Ritter, Saeger, Scheetz, Scott, Sellers, Seltzer, Serrill, Shellito, Sill, Smyth, of Centre, Smith, of Columbia, Sterigere, Stickel, Sturdevant, Taggart, Thomas, Todd, Weaver, Woodward, Young, Sergeant, *President*—95.

Mr. CHANDLER, of Chester, moved that the convention adjourn. Lost—**ayes 57, noes 65.**

Mr. PORTER, of Northampton, moved to amend the amendment, by striking out all after the word "section," and inserting :

"No charter of incorporation, for banking purposes, or for dealing in money, stock, securities, or paper credit, to be hereafter granted, shall exceed the duration of twenty years, nor shall the same be granted, renewed or extended where the capital authorized exceeds two millions and a half of dollars, without the concurrence of two successive legislatures, and the right shall be, and is reserved to the legislature, in like manner, to repeal, alter, or modify all banking charters of incorporation hereafter to be granted, or renewed, when the interests of the public shall so require ; in such manner, however, that no injustice shall be done to the corporators."

Mr. KONIGMACHER called for the previous question ; which was sustained.

The question next recurring [was "Shall the main question be now put?"

Mr. KONIGMACHER asked for the yeas and nays.

And the question being then taken, it was decided in the negative—**yeas 56, nays 65.**

YEAS—Messrs. Agnew, Ayres, Baldwin, Barndollar, Barnitz, Biddle, Brown, of Lancaster, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Clapp, Coates, Cochran, Cope, Cox, Craig, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Dunlop, Forward, Harris, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Houpt, Jenks, Kerr, Konigmacher, Long, Maclay, M'Call, M'Sherry, Meredith, Merrill, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Reigart, Royer, Russell, Seagar, Scott, Serrill, Sill, Snively, Thomas, Todd, Weidman, Young, Sergeant, *President*—56.

YAYS—Messrs. Banks, Barclay, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Clarke, of Indiana, Cleavinger, Crain, Crawford, Cummin, Curll, Darrah, Dillinger, Donagan, Donnell, Doran, Earle, Fleming, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hastings, Hayhurst, Helfenstein, Hiester, High, Hyde, Ingersoll, Keim, Kennedy, Krebs, Lyons, Magee, Mann, Martin, M'Cahen, M'Dowell, Merkel, Miller, Nevin, Overfield, Payne, Porter, of Northampton, Read, Ritter, Ritter, Scheetz, Sellers, Seltzer, Shellito, Smith, of Columbia, Smyth, of Centre, Sterigere, Stickel, Sturdevant, Taggart, Weaver, Woodward—65.

The question being on agreeing to the amendment to the amendment offered by Mr. PORTER, of Northampton, it was taken, and determined in the negative, yeas 37, nays 81, as follow, viz :

YEAS—Messrs. Agnew, Ayres, Barndollar, Biddle, Brown, of Lancaster, Carey Clarke, of Beaver, Cope, Cox, Crain, Crum, Dillinger, Donagan, Gamble, Gearhart, Hays, Henderson, of Dauphin, Kennedy, Kerr, Konigsmacher, Maclay, M'Sherry, Meredith, Merrill, Merkel, Pennypacker, Pollock, Porter, of Lancaster, Porter, of Northampton, Reigart, Royer, Russell, Scott, Smith, of Columbia, Snively, Thomas, Young—37.

NAYS—Messrs. Baldwin, Banks, Barclay, Barnitz, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Clapp, Clark, of Dauphin, Clarke, of Indiana, Cleavinger, Coats, Cochran, Craig, Crawford, Cummin, Cunningham, Curll, Darlington, Darrah, Denny, Dickey, Dickerson, Donnell, Doran, Earle, Fleming, Foulkrod, Fry, Fuller, Gilmore, Grenell, Harris, Hayhurst, Henderson, of Allegheny, Hiester, High, Hopkinson, Hout, Hyde, Ingersoll, Jenks, Keim, Krebs, Long, Lyons, Magee, Mann, Martin, M'Cahen, M'Call, M'Dowell, Miller, Montgomery, Nevin, Overfield, Read, Ritter, Ritter, Saeger, Scheetz, Sellers, Seltzer, Serrill, Shellito, Sill, Smyth, of Centre, Sterigere, Stickel, Sturdevant, Taggart, Todd, Weaver, Woodward, Sergeant, *President*—81.

Mr. PORTER, of Northampton, moved an adjournment; lost,

Mr. DARLINGTON moved to amend the amendment by striking out "six," and inserting "three." He said he was in favor of three months' notice

The question being taken, the motion to amend the amendment was rejected; yeas 59, nays 64, as follow, viz :

YEAS—Messrs. Agnew, Ayres, Baldwin, Barndollar, Barnitz, Biddle, Brown, of Lancaster, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Clapp, Clarke, of Beaver, Clark, of Dauphin, Coates, Cochran, Cope, Cox, Craig, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Forward, Harris, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Hopkinson, Hout, Jenks, Kerr, Konigsmacher, Long, Maclay, M'Call, Meredith, Merrill, Merkel, Montgomery, Payne, Pennypacker, Pollock, Porter, of Lancaster, Porter, of Northampton, Reigart, Royer, Russell, Saeger, Scott, Serrill, Sill, Snively, Thomas, Todd, Weidman, Sergeant, *President*—59.

NAYS—Messrs. Banks, Barclay, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Clarke, of Indiana, Cleavinger, Crain, Crawford, Cummin, Curll, Darrah, Dillinger, Donagan, Donnell, Doran, Dunlop, Earle, Fleming, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hastings, Hayhurst, Helfenstein, Hiester, High, Hyde, Ingersoll, Keim, Kennedy, Krebs, Lyons, Magee, Mann, Martin, M'Cahen, M'Dowell, M'Sherry, Miller, Nevin, Overfield, Read, Ritter, Ritter, Scheetz, Sellers, Seltzer, Shellito, Smith, of Columbia, Smyth, of Centre, Sterigere, Stickel, Sturdevant, Taggart, Weaver, Woodward—64.

Mr. CHANDLER, of Chester, moved an adjournment—which was disagreed to.

Mr. CHANDLER, of Philadelphia, moved that the convention now reconsider the vote of this evening on the amendment offered by Mr. PORTER, of Northampton, to the amendment, being in the words following, viz :

“No charter of incorporation for banking purposes, or for dealing in money, stock, securities, or paper credit, to be hereafter granted, shall exceed the duration of twenty years, nor shall the same be granted, renewed or extended, where the capital authorized exceeds two millions and a half of dollars, without the concurrence of two successive legislatures, and the right shall be, and is reserved to the legislature, in like manner, to repeal, alter, or modify all banking charters of incorporation hereafter to be granted, or renewed, when the interests of the public shall so require, in such manner, however, that no injustice shall be done to the corporations.”

And the question being on the reconsideration,

Mr. DENNY expressed a wish that the question should be divided, but did not press it as a motion.

Mr. CHANDLER, of the city of Philadelphia, said it appeared that when the question was taken on the amendment of the gentlemen from Northampton, (Mr. Porter) it was not so well understood as it ought to be, and he moved a reconsideration of the vote, by which that amendment was rejected.

The question being on the motion to reconsider, the yeas and nays were required by Mr. BIDDLE and Mr. INGERSOLL, and are as follow, viz :

YEAS—Messrs. Agnew, Ayres, Baldwin, Barndollar, Barnitz, Biddle, Brown, of Lancaster, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Clapp, Clarke, of Beaver, Clark, of Dauphin, Coates, Cochran, Cope, Cox, Craig, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Dunlop, Forward, Harris, Hays, Henderson, of Dauphin, Hopkinson, Houpt, Jenks, Kerr, Konigsmacher, Long, Maclay, M'Call, M'Sherry, Meredith, Merrill, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Porter, of Northampton, Reigart, Royer, Russell, Saeger, Scott, Serrill, Sill, Snively, Thomas, Todd, Weidman, Young, Sergeant, *President*—59.

NAYS—Messrs. Banks, Barclay, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Clarke, of Indiana, Cleavinger, Crain, Crawford, Cummin, Curll, Darrah, Dillinger, Donagan, Donnell, Doran, Earle, Fleming, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hastings, Hayhurst, Helffenstein, Hiester, High, Hyde, Ingersoll, Keim, Kennedy, Krebs, Lyons, Magee, Mann, Martin, M'Caben, M'Dowell, Merkel, Miller, Nevin, Overfield, Read, Riter, Ritter, Scheetz, Sellers, Seltzer, Shellito, Smith, of Columbia, Smyth, of Centre, Sterigere, Stickel, Taggart, Weaver, Woodward—62.

So the question was determined in the negative.

Mr. DUNLOP moved to amend the amendment, by striking therefrom all after the word “section,” and inserting in lieu thereof the following, viz :

“That no banking corporation shall hereafter permit their notes in circulation and deposit to exceed their coin, beyond the proportion of seven to one ; and no such corporation shall be hereafter created, except by a vote of two-thirds of both houses of the legislature.”

The amendment to the amendment being under consideration,

Mr. DUNLOP moved an adjournment, which was disagreed to.

Mr. DUNLOP said he did not desire to occupy any more of the time of the convention than was necessary in order to explain his object. It was necessary, he said, to place an idea two or three times before some men's minds before they would be able to comprehend it. He had always had his doubts whether the reformers here, really wished to restrict the banks in any manner. His doubts were strengthened by the recent vote in the legislature of New York, when a bill creating banks, passed by a vote of ten to one. Mr. Marcy, the governor of New York, and great leader of the Van Buren party there, had come out with a recommendation of the suspension of the law restraining the issue of small notes, and it had passed the lower house by a vote of ninety-two to ten. Is it possible to believe that there is not a consanguinity between the loco focos of New York and their friends, and allies here. The loco focos, who pretend here to be the exclusive friends of reform, talk of evils attending the banking system, but they will agree to no proposition, having in view the arrest of those evils. He wished it to appear on the journals of this body, that the reformers here were opposed to any proposition for restraining the immoderate issues of bank paper. He wished the people to understand that these reformers would not agree to restrict the issues of the banks to a certain amount; in proportion to their specie. He wanted to see how many of them, and who, would vote against this proposition.

The amendment of the gentleman from Lancaster, under consideration, would not, in his opinion, answer any useful purpose. It would not reach the evils complained of, but this proposition would effectually remove them.

He had, he said, seen the amendment of the gentleman from Susquehanna, (Mr. Read) paraded in the Globe, and he had no doubt that it would be pretended that the reformers here, who vote down every proposition to restrict the banks, are in favor of restricting the banks, while the conservatives are opposed to it. Now he wanted to see who was who, and who would record their names against this effectual restriction of the banks. He wanted to show his constituents who were opposed to his two propositions for preventing the banks from getting into insolvency, and he wanted the newspapers to promulgate the fact that we, the conservatives, took the only course that was possible for the removal of the evils of the banking system. It was still, he said, seven or eight hours to day light and there was an abundance of time for getting the yeas and nays on this important question. He wanted to see how many would act under their new orders from Washington. The new voice from that quarter, is in favor, not of destroying the banks, but only of regulating them.

Now he would ask any gentleman here if he does not know and believe that his proposition would place the banks in a situation in which they could never have occasion to suspend specie payments, while, on the other hand, they cannot resume specie payments as long as their liabilities are so great in proportion to their specie as they have been in times past. The disproportion has been as great as sixteen for one. Every one here knows that the local banks cannot restrain themselves without a national institution, unless some means, like those which I now propose be adopted. We are more willing and anxious to take the vote to night. We want to show the country that we have done every thing we cou

do, in order to avert the evils which the banking system is said by the reformers here, to be fraught with. We want to show them that the Van Buren men vote against us upon every proposition of reform.

Mr. Cox said, he had, before the passage of the resolution restricting members to one hour in debate, intended to have submitted his views somewhat at large, in relation to the question of the currency. The passage of that resolution, and the anxiety of the convention, as manifested by several votes, to get through with its business as speedily as possible, induced him to say nothing on the subject thus far. As, however, it appeared to be the disposition of a portion of the convention, to dispose of this very important subject, without that mature deliberation which its importance demanded, he felt it now to be his duty, to advance some further arguments on the subject of banking, and banking institutions generally, and he was only sorry, that the rule would not permit him to go more largely into it, because, he could talk a week, if gentlemen were disposed to listen to him that long.

[Cries of "go on," "go on," and "question," "question."]

Mr. C. I beg gentlemen to be easy. In the discussion of this question, during the hour which will be allotted to me, I shall take occasion to turn to a number of public documents, and endeavor to point out to the convention, the course which has been pursued by the great chieftain, and some of the faithful. I shall, perhaps, go into an inquiry, as to the democracy of certain gentlemen in high places. In the discussion of this question, many gentlemen had referred to documents, to show the condition of the currency in other countries, as compared with our own, and some had gone back to the early history of the country, to show the condition of things which then existed, before banks were established. It had been the opinion of many gentlemen, that the pressures and panics, which we have had, and seasons of plenty, and seasons of scarcity of money, arose from the mismanagement of the banks, or at least, from the facts that banks furnished us with a currency.

Now, I hold in my hand a document, which will dispel all these mistaken notions, which gentlemen have got into their heads, by some means or other. This document shows that we have had seasons of very great scarcity of money, and stagnation of business, before we had a banking institution in our land. I now beg leave to call the attention of the convention, to some extracts which I shall read from the third volume, and second page of Hazard's Register of Pennsylvania.

Mr. BELL, rose to a point of order. He desired to know whether it was in order for gentlemen to read extracts from books.

The CHAIR said, it had always been the practice, to permit gentlemen to refer briefly to works as authority, but it would not be in order to read large extracts from books, unless by the leave of the convention.

Mr. Cox. I consider this a matter of very considerable importance, and I hope gentlemen will consider it seriously, especially those, who have attributed all the evils which have arisen, in relation to the currency, to banking institutions, and perhaps, some parts of my speech will not be so important as these extracts. On the second page of this work, which he held in his hand, he found, that in the year 1722, which is one hun-

dred and fifteen years ago, that the province experienced very great embarrassment, from the decay of trade and the depreciation of the currency.

Yes, sir, in 1722, the then province of Pennsylvania, experienced great embarrassment from the decay of trade, and a depreciation of the currency. Well sir, what was it that caused this depreciation in the currency in 1722? What could gentlemen find, after all their searching, to attribute this depreciation to? Had they, then, a United States Bank, chartered by the province as a hobby, on which they could saddle every thing, or could they attribute it to the combination or conspiracy of any other banks? No, Mr. President, they could not attribute it to this cause, because, at that time there was not a bank in the province. There was then not a bank in this province, yet we are told by this work, that trade experienced some great difficulties, on account of the pressure in the money market, that it was necessary, if possible, to devise some means of relief. Mr. C. proceeded, and read from Hazard's Register, as follows:

"In the year 1722, it appears, from the votes of assembly, the province experienced great embarrassments from the decay of trade and depreciation of currency. On the 2d of January, 1722-3, a petition was presented from sundry inhabitants of the city and county of Philadelphia, setting forth, 'That they are sensibly aggrieved in their estates and dealings, to the great loss and growing ruin of themselves, and the evident decay of this province in general, for want of a medium to buy and sell with, and praying for a paper currency.'"

Mr. WOODWARD. I call the gentleman to order.

Mr. COX. The gentleman must reduce his point of order to writing, if I understand the rule correctly.

The CHAIR said, the gentleman would state his point of order, and he then would decide.

Mr. WOODWARD. My point of order is, that it is not in order, to read a document to the house at length.

The CHAIR only understood the gentleman, as proposing to read a few extracts from the work which he held in his hand, and this had been done by a great many of the gentlemen who had addressed the house.

Mr. WOODWARD. If the reading from the volume which the gentleman holds in his hand, is not out of order, I should think, that the whole scope and tenor of his remarks, were out of order, because they have not the least bearing upon the question.

The CHAIR could not undertake to say, that the gentleman was out of order, because, the whole subject being open, he did not know what application he was going to make of his remarks to the question.

Mr. FULLER. Did I understand the Chair to say, that the gentleman was not out of order, in reading a book of that size to us, at this time of night? [A laugh.]

Mr. COX. I hope that gentlemen will have a little patience with me, as I have been very patient in submitting thus quietly to their interruptions. I must say to them, however, that they will lengthen my speech

by their interruptions, because, they put me out of my line of argument, and, of necessity, make me repeat much; that I would not, if permitted to go on without interruption.

I want to show, gentlemen, that all this cry which we have had about pressures in the money market, being caused by the banks, is not exactly correct, and that very great difficulties and embarrassments in the money market, existed when there were no banks at all in the country; and I want to show them, further, that the proposition of restrictions, submitted by my learned friend, the ex-member of congress from Lancaster, (Mr. Hiester) is not calculated to meet the evil of an occasional pressure in the money market. I want to show, that the proposed amendment of the gentleman from Franklin, (Mr. Dunlop) may be of some substantial use, and that nothing but evil can result from the amendment of the gentleman from Lancaster.

Mr. C. then proceeded, and read the following extracts in continuation, from Hazard's Register:

"On the same day a petition from a portion of the inhabitants of Chester county, was also presented, praying 'that the current money may be raised, and not to make a paper currency—that the produce of the province be made a currency, and the exportation of money prohibited.'"

I suppose this was the kind of currency they once had in Kentucky, when they used to pass cows for dollars, and throw in calves for change.

Mr. KEIM. I wish to know whether the gentleman can tell us from that book, the exact time when this country was discovered, and whether it was first discovered by Christopher Columbus?

[Order! order! order! from various parts of the hall.]

Mr. Cox. If I was not well informed on that subject, I might apply to the gentleman from Berks, (Mr. Keim) who has a very large head, and ought to have a good deal in it; but I am afraid there is but little.

Mr. C. then proceeded to read from the afore mentioned work, as follows:

"Another petition from the same county, as well as of Bucks, united in favor of a paper currency. On the petition from Philadelphia, the committee on grievances reported 'that it contains matters of fact, and what they believe to be true and worthy of weighty consideration, and refer it to the house.' On the petition from Chester, they 'refer to the house, whether the raising the cash, or striking of paper money, will be most to the advantage of this province.'"

Mark this, said Mr. C. 'The representatives of the people of that day were true patriots, and first consulted the good of the people of the province. That was their first object in those days, and not like the would-be patriots of the present day, who take every thing into consideration, before the public good. At the present day, party is the first consideration, and the welfare of the people the last. In the days to which I have referred, however, true patriotism existed, and then was the time that all men who acted in public capacities, acted alone with reference to the public good.

Mr. C. proceeded to read the following:

"But humbly presume, that if dollars were raised to *five shillings* a piece, it might be of benefit; they think it would be impracticable to prevent the exportation of specie; but are of opinion that if a law was made, to make the country produce, at market price, pay for servants, goods exported, and to discharge judgments and executions, it would be of public service."

"On the 8th of January, 1722-3, the subject was discussed at length, and the question 'whether it was necessary that a quantity of paper money, founded on a good scheme, be struck or imprinted.' Decided in the affirmative."

Look at the expedition with which they did business, and acted to relieve the wants of the people at that early day. The subject was brought to their notice on the second of January, and on the eighth of the same month, they decided to issue paper money for the relief of the people. Sure it was not carried into a law for some time afterwards, but the representative body adopted it thus speedily.

Mr. REIGART. If the gentleman will give way, I will move an adjournment, as it is now eleven o'clock at night.

[No! No! No! proceeded from all quarters of the hall.]

Mr. Cox. Oh I am not anxious about it, because, I went out, a short time ago, and had some oysters and other refreshments, and I can go on to-night as long as gentlemen are desirous of listening to me. He then proceeded to read extracts as follows:

"It was also determined that lion or dog dollars, weighing sixteen penny weights or upwards, shall pass for five shillings. This appears to be the first scheme for the introduction of a paper currency into the province. On the ninth of the same month, a petition was read from several gentlemen and merchants, "entreating an opportunity, of offering their sentiments, of the danger of ill concerted schemes, in so nice and important a case, as the regulation or institution of a provincial currency is." The next day was assigned for hearing them, and, accordingly, Isaac Norris and James Logan, two of the petitioners, delivered their sentiments in writing as follows.

Mr. C. said, he should not read this argument, because he wanted to get on to more important matter.

He again read from the Register, the following extract:

"Subsequently, several motions were made and negatived, as to the amount to be struck, and £12,000 finally agreed upon. On the eleventh of January, it was decided to abate the *interest* of money, from eight to six per cent per annum, upon all future bonds and contracts. It was then considered in what way the £12,000 should be issued. A proposal to *lend it out of an office* to be created, at six per cent interest, was negatived, and five per cent interest agreed to; and the money thus raised was to pass for five years, it being "at the choice of the borrower, to pay off the principal sooner, or any part not less than one-fourth, at one payment." The security to be given, to be "three times the value in lands and lots, and four times the value in houses."

On the twelfth, the governor, Sir William Keith, delivered his sentiments in writing, on the subject of a paper currency, as follows :

Mr. C. said, he should not read the opinion of the governor of the province, as it was very long, but he should turn to another more important matter, which showed the strong feeling in favor of a paper currency, even at that early day. The people then felt the necessity of the times, and their own self-preservation compelled them to take this step speedily. He then read from the same work the following :

"The proceedings of the assembly do not appear to have given satisfaction, for petitions were, on the twenty-second of November, presented, praying that the paper currency "may be made to answer former contracts, and be continued longer than five years;" "that the sum be increased;" and "that the manner of its sinking be formed on a scheme of sinking principal and interest together," "and the security to be given, lessened." It was then determined, after a long debate, to increase the amount to £15,000; to extend the time to eight years; to be paid in annual payments, the security to be *double* the value in lands, lots, ground rents, and freehold estates, in fee simple; and in houses, freehold in fee simple, three times the value of the sum borrowed. "It was agreed to appoint four commissioners and trustees to execute the office of moneying and disposing of the paper currency, and that the office to be erected for the issuing of it, be settled in Philadelphia; but, on occasions, to be also held in Bucks and Chester counties."

It was ordered also, that a committee "consult the attorney general, and other persons skilled in the law, as they think fit, in relation to drawing the bill for a paper currency." Good plate was to be received as security for the paper, at five shillings per ounce.

On the twenty-sixth of January, two of the petitioners of the twenty-second, presented the following answer to the sentiments of Logan and Norris."

Mr. BALDWIN, then moved that the convention adjourn. Lost—ayes 38; noes 44.

Mr. Cox. I am very glad the house did not adjourn, for I am now just in the humour for going on with my speech, and hope I shall be able to satisfy gentlemen with its length, [go on! go on!] I intend to go on, without being urged to it by the importunate cries of gentlemen who do not seem much disposed to listen, from the extraordinary noise they are making in the hall. If gentlemen have cold feet, I think they might warm them more easily by going to the fire, than by kicking them against the bottom of their desks. Mr. C. then read from the eighth page of the third volume of Hazard's Register, the following extracts :

February 7, 1723. It was agreed to allow the signers of the bills twenty-pounds each for their trouble. On the eighth it was determined, that the mode of suing the mortgages shall be by *scire facias*. Fifty pounds per annum, was fixed as the salary of each trustee of the loan office; and Charles Read, Francis Rawle, Benjamin Vining, and Anthony Morris, were appointed signers, and Samuel Carpenter a trustee. On the eleventh, it passed the house, and a committee was appointed to carry it to the governor; who "was pleased to say, he would consider it deliber-

ately in council." On the fifteenth, the governor returned the bill with amendments; the house consider and reject most of them, then return it to the governor for his concurrence; who, again, "is pleased to say he will consider." On the twenty-sixth, the house acquaint the governor, that "having set long, they desire to know, particularly, if he has finished his consideration of the bill." He replies next day, that, it is the wish of the council, that a committee of conference be appointed by the house, on the points of difficulty, stating that he "*daily perceives more and more, that the people languish for want of some currency to revive trade and business, which is at present wholly at a stand.*"

Now, said Mr. C., I should like some of these real radical anti-bank men, who attributed all the pressures which we have had in the money market, to the bank operations, and the unholy combinations of these more than unholy institutions, to tell me what it was that caused this great pressure in the money market, which the provincial governor here speaks of, because there were no banking institutions then in existence to saddle it upon. At that time, there was no money in circulation but specie, yet they had a severe pressure, and these humbug gold currency men, would tell you, that if you had nothing but a specie currency, you would never have a pressure and panic. I think it will put the ingenuity of some gentlemen to work, to answer this question which I put to them. If they cannot satisfactorily explain it, they must give up, that all their declarations about a gold and silver currency, are entitled to no weight, and all their opinions based upon erroneous grounds, and will not stand the test of examination. Mr. C. then proceeded to read from the work as follows :

"Wherefore, I am of opinion, that all the despatch imaginable ought to be given to the paper bill, which I am ready to pass, so soon as you please to bring it up, for I think the urgent necessities of the whole people, most justly gives it a preference to all other business."

The necessities of the people gave it a preference over all other business; and therefore, it ought to be acted upon at once. Then was the time when the urgent necessities of the people were considered, and then was the time when the interests of the people were attended to. It was not then, as now, that the words "dear people" were continually used, and the interests of the "dear people" were farthest from their hearts. It was not then, as now, that *party* was uppermost in the minds of men, and politics was always held to, even if the interests of the people were sacrificed by it. He proceeded to read as follows :

"The house appointed the committee of conference, who returned and reported—the house disagree. Thus it proceeded until the second of the first month, (March) 1722–23, when the bill for issuing £15,000 became a law. The extreme caution, which was manifested throughout the progress of this business, was occasioned, no doubt, from the fear of the depreciation of their bills, having some striking examples before them in the neighboring colonies. The good effects of this emission induced the assembly, during the same year, to issue £30,000 more. Farther difficulties occurred, some years afterwards, which we shall take occasion to notice."

This, said Mr. C., is very important information, and ought to be so

considered by this convention. It argues very strongly in favor of this much abused paper system, and I don't think gentlemen will be able to produce any thing to refute it, unless they can get a letter from the Hermitage, which will prove to this country and the world, that this was all a mistake, and entitled to no consideration. We are told too, by Benjamin Franklin, that this paper system, which was introduced at that early day, was opposed most strenuously by the rich. The rich were opposed to this issue of paper money, because, as they said, it would beget among the poor a desire for more money. I will venture now to say, too, that if you take the rich of the country, from one end of it to the other, unless they prefer the interests of the people to their own interest, that they would be opposed to paper money for general circulation, and that too, for the same reason which was urged against it, nearly a hundred years ago—that is, that it would enable the poor to get along too easily, that it would enable them to grow rich, and prevent the rich from grinding them down to the earth.

He, and every other man in this commonwealth, knew they were of little, if any advantage, to those who were really rich. Every one was aware that the rich did not need, and had not, the assistance of banks, for the reason that they possessed sufficient money to lend, to speculate upon, and with which to deal, if they thought proper. No, it was our industrious and ingenious mechanics, our enterprizing merchants, who might not be so wealthy as not to require some aid, or our skilful farmers and the industrious of every class of the community, to whom the banking institutions of the state were almost invaluable, inasmuch as they lent them the assistance they required in the prosecution of their pursuits and business. He thought it would be worth while for those delegates in this convention, who were disposed to indulge in tirades and undeserved abuse of the banks, to consider and reflect well, as to what would be the consequence of pulling down and sweeping from existence all the banks, as was the intention of the old chieftain—General Jackson—to have done, had he remained a sufficient length of time in the presidential chair. And, were gentlemen so blinded as not to be able to see to what results the wild and quixotic notions of the delegate from the county of Susquehanna, (Mr. Read) would lead, if carried out? Why, then, every man who might, perhaps, be possessed of ten or twenty thousand dollars, could avail himself of the poverty of others, and greatly increase his wealth by purchasing property, sold at an immense sacrifice, and which, probably, would not have been brought to the hammer had there been banks, from which the owner could have borrowed some money, at a reasonable rate of interest, to extricate himself from the difficulties in which he found himself involved.

If all the banks were to be annihilated—if we were to return to the days of gold and silver—to the golden age, as it had been called—then undoubtedly, would the rich grow richer, and the poor become poorer. Let us once do that, and we would have an aristocracy more powerful and dangerous than that which formerly existed in England. Yes! we should have, at no very remote period, a king, and dukes, earls, lords, &c. We would then have a moneyed aristocracy; the most dangerous and odious of all aristocracies. And, yet, it seemed, according to the sentiments of some delegates on this floor, that rather than abandon, or not carry

out, the agrarian doctrines of Fanny Wright, and make an equal distribution of property, they would not support institutions which time and experience had clearly proved to have been highly beneficial to the best interests of the country. The amount of specie, at this time, in the country, was probably from eighteen to twenty millions.

We had it from high authority, that, if there was no paper money in the United States, there would be about eighty millions of specie required for the currency, a sum not equal to one-twentieth of the liabilities of the whole country !

Abolish the banks, and establish an entire metallic currency, and the Rothschilds, the Goldsmids, the Barings, and other rich men in Europe, would buy up our lands, and then the dukes, lords, and other aristocratic and wealthy men, who had been so much talked of here, would become the owners of American soil, and, eventually, the regulators and controllers of the people and of their liberties.

He implored gentlemen to ponder long, and weigh well the consequences which might result from taking this extraordinary—and, in his opinion—mad course—a course which would doubtless, eventuate in making the rich richer and the poor poorer, although taken by those who professed to be the friends of the poor and the opposers of monopoly.

He could desire that all the hard-working and industrious men in the country should examine this very important subject, coolly and deliberately for themselves. He felt quite sure that if they did so, they would spurn, with indignation, those who would ruin them, sacrifice their liberties, and turn them penniless on the world.

[Here Mr. BIDDLE rose and said, that if the gentleman from Somerset would give way, he would move that the convention do now adjourn.]

Mr. Cox, accordingly, resumed his seat, when

Mr. BIDDLE made the motion, which was negatived—ayes 37, noes 40, and upwards.

Mr. Cox then continued. When arrested in his remarks, he was about to say—supposing the state of Pennsylvania had a gold and silver currency, amounting to the sum he had already stated, about six millions of dollars would be the proportion to which she would be entitled. Now, that would give to each individual in the commonwealth of Pennsylvania, estimating the population at sixteen millions, four dollars. He would like to know whether a man, engaged in business would be willing to take four dollars for his share of the currency of Pennsylvania, during a year. Why, the very proposition was perfectly absurd and ridiculous, so much so, indeed, that he wondered any sane man could entertain it for a single moment. Four dollars to each individual ! It was, indeed, truly absurd.

He would now take the liberty of reading one or two extracts, taken from the great “Globe” itself, and published in the Harrisburg Telegraph, being portions of the President’s message, delivered to congress, Tuesday, December 6, 1836:

“You will perceive, from the report of the secretary of the treasury, that the financial means of the country continue to keep pace with its

improvements in all other respects. The receipts into the treasury, during the present year, will amount to about \$47,691,898; those from customs being estimated at \$22,523,151; those from lands, at about \$24,000,000, and the residue from miscellaneous sources. The expenditures for all objects during the year, are estimated not to exceed \$32,000,000, which will leave a balance in the treasury for public purposes, on the first day of January next, of about \$41,723,959: This sum, with the exception of five millions, will be transferred to the several states, in accordance with the provisions of the act regulating the deposits of the public money."

Now, gentlemen would recollect that the annual expenditures of the government, while John Q. Adams occupied the presidential chair—and his administration he (Mr. C.) never supported—had not exceeded fourteen millions! He was very sorry at not being able to give the same account in regard to his successor, General Jackson, whose administration he at first supported, and which was to have been one of retrenchment. Yes! we were told, that, when the old General should come in to office, a reduction would be made in the expenditures of the government, that a complete retrenchment was to be effected—that his was to be an economical administration—that the Augean stable was to be cleansed! How? By increasing the expenditures from fourteen to thirty-two millions of dollars?

He (Mr. Cox) thought this a novel and extraordinary mode of reducing the expenditures of the government. It was economy with a vengeance! Little did he dream of the stable being cleansed out in that way, when he voted for the hero of New Orleans. Had he done so, the General should never have had his vote.

The General in his message of 1836, said: "this sum," about forty-one millions of dollars "with the exception of five millions, will be transferred to the several states, in accordance with the provisions of the act regulating the deposits of the public money."

Now, the old fellow, when he spoke of reserving five millions to be put in the treasury, did not give the slightest hint that he meant it to be expended for the purpose of driving off the poor and miserable Indians from their lands, at the point of the bayonet.

In pursuance of his (Mr. C's) promise, he would say a few words in regard to the policy of Martin Van Buren. Delegates here could not have forgotten the letter which that gentleman wrote in reply to the one addressed to him by the Hon. Sherrod Williams, and what he said he would do—follow in the footsteps of General Jackson. Well, every body knew that when Jackson came into office, we had a large national debt, and that during his administration it was paid off.

Now, he (Mr. C.) would like to know how Mr. Van Buren was to pay off the present national debt, incurred by the Seminole war. And, if he could not do it, he, therefore, could not follow in the footsteps of his illustrious predecessor. As a war had been commenced against the Indians in the General's time, so it was necessary, in order to fulfil the declaration thus made, to get up another.

[Here Mr. WOODWARD rose to a point of order; which was overruled by the Chair.]

Mr. Cox continued. When interrupted, he was proceeding to say that the present executive of the United States could not follow in the footsteps of General Jackson, unless there was a war. An attempt had been made to bring about a war with Mexico, by permitting citizens of the United States to go and settle upon her lands; but it proved unsuccessful, because the settlers in Texas had, contrary to the expectations of the administration, taken up arms against the government of Mexico, and defeated her troops. Another thing was wanting, too, to carry out the declaration of the President, and that was a war against the banking institutions of the country.

He (Mr. C.) would call to the recollection of delegates the fact stated by General Jackson in December, 1836, that there would be a surplus of \$1,000,000, by the first January following.

Now, when Martin Van Buren was elected, the revenue was coming in so fast, and there being no probability that there would be a national debt to pay, it was deemed absolutely necessary to wage war on the banking institutions of the country, in order to effect that purpose. The administration accordingly raised an outcry against the banks—that they were unworthy of credit, unsound, &c.

Next, the specie circular was issued, the object of which was to prevent the land offices from receiving any thing for the purchase of the public lands, except gold and silver. The effect of the treasury order, or specie circular, as it was commonly called, was strongly calculated to destroy the public confidence in the banking institutions of the Union; for, it drew all the specie from the eastern to the western states, where it was not wanted. And, consequently, the Atlantic states were drained of many millions of specie, and an entire suspension of the sales of the public lands took place.

Let gentlemen, for a moment, look at the beautiful operation of the specie circular. In his humble opinion, there had never before been so hollow-hearted and insincere an attempt made to impose upon any people, by any government, as was made by this. It was not less notorious than true, that the government refused to take the notes of the deposit banks in payment for public lands, while they, at the same time, obliged the poor holder, for instance, in Philadelphia or elsewhere, to obtain specie and carry it all the way to Ohio, or some other state, to purchase land.

Mr. Cox having addressed the convention until the expiration of the hour allowed by the rule of the convention,

Mr. DONAGAN moved that the member from Somersst, (Mr. Cox) have leave to proceed in his remarks.

On the question, will the convention agree to the motion?

The yeas and nays were required by Mr. DICKEY and Mr. KONIGMACHER, and are as follow, viz:

YEAS—Messrs. Agnew, Baldwin, Barndollar, Barnitz, Biddle, Bonham, Brown, of Lancaster, Carey Coats, Cochran, Crain, Crum, Cunningham, Curl, Darlington, Denny, Dickey, Donagan, Forward, Fry, Hays, Henderson, of Dauphin, Hiester, Houpt, Ingersoll, Jenks, Konigmacher, Long, Magee, M'Call, M'Dowell, M'Sherry,

Meredith, Montgomery, Payne, Pollock, Porter, of Lancaster, Reigart, Riter, Royer, Russell, Scott, Serrill, Snively, Thomas, Young, Sergeant, *President*—47.

NAYS—Messrs. Banks, Barclay, Bedford, Bell, Brown, of Northampton, Brown, of Philadelphia, Chambers, Chandler, of Chester, Clapp, Clarke, of Indiana, Cleavinger, Craig, Crawford, Cummin, Darrah, Dillinger, Donnell, Doran, Dunlop, Earle, Fleming, Foulkrod, Fuller, Gearhart, Gilmore, Gienell, Harris, Hastings, Hayhurst, Helffenstein, High, Hyde, Keim, Kennedy, Krebs, Lyons, Maclay, Mann, Martin, M'Cahen, Merkel, Miller, Overfield Pennypacker, Porter, of Northampton, Read, Ritter, Scheetz, Sellers, Seltzer, Shellito, Sill, Smith, of Columbia, Smyth, of Centre, Sterigere, Stickel, Sturdevant, Taggart, Todd, Weaver, Woodward—61.

So the question was determined in the negative.

Mr. EARLE said he was not going to make a speech, but as the gentleman from Franklin proposed an amendment, giving authority to the legislature, to repeal a charter by a vote of two-thirds, I must beg leave to read ten lines from the debates.

[Mr. E. read a few sentences from a speech of the member from Franklin.]

Mr. DUNLOP said he would beg leave to modify his amendment, by leaving out the latter clause, so that the amendment would read as follows :

“That no banking corporation shall hereafter permit their notes in circulation and deposits, to exceed their coin, beyond the proportion of seven to one.”

Mr. Cox rose and addressed the Chair: Mr. President, I believe that the amendment has been modified, and that, as a new question is thereby presented, I am at liberty to express my sentiments upon it.

Mr. BROWN, of the county of Philadelphia. Has the gentleman a right to speak, after leave was refused?

The CHAIR stated that it had been repeatedly decided heretofore, that when a new question was presented, a member might speak upon it, though his remarks had been cut off previously by the expiration of the hour.

Mr. Cox resumed his remarks: In a former speech, Mr. President, I went on to show how Mr. Van Buren was able to walk in the footsteps of his illustrious predecessor. Then I went on to show the operation of the specie circular, and adverted to its objects and results. The operation of it was more trifling than child's play, in reference to its professed objects.

Mr. BROWN, of the county, called the gentleman to order, and said he would state the point of order. The gentleman had no right to speak again, without the leave of the convention.

Mr. REIGART. The question has been entirely changed since the gentleman spoke.

Mr. BROWN withdrew his objection.

Mr. INGERSOLL. I conceive that the member from Somerset is speaking against time, and is not confining his remarks to the question.

The CHAIR (Mr. Reigart) said the Chair has no right to decide with what view a member was speaking, but only whether he was speaking to the question.

Mr. INGERSOLL. Upon the latter ground, the gentleman is certainly out of order.

Mr. Cox resumed : The gentlemen who voted against permitting me to speak, ought not to interrupt me now. I will soon show them the application of my remarks to the question.

Mr. INGERSOLL. I have no objection to the gentleman's going on, if he will only stick to the question.

Mr. Cox proceeded : It is alleged that the banking system is radically wrong, and that the suspension of specie payments is a necessary consequence of the banking system. I want to show, on the other hand, that the tampering with the currency, by the government, was the cause of the suspension of specie payments. I was about to show, that the specie order, as far as the banks were concerned, was not injurious to them ; for though bank notes were not received at the land offices, the specie received there, was immediately taken to Columbus, and deposited in one of these very banks. How perfectly absurd and useless then, was this specie order.

They would not take banks notes in payment for land, but they would take specie and deposit that in the banks—not specially, but on general deposit. Thus they made use of the banks, whose notes they refused. But, now the government is in debt. Now, or soon, they will owe ten millions of dollars. The very government that is so much in favor of this specie currency, have issued their shinplasters from absolute necessity, and have thus created a debt of ten millions of dollars.

So much, sir, for following in the footsteps of the late illustrious president. So they say Mr. Van Buren is paying off the national debt, and is disgracing all the officers of the army, and is, therefore, like the illustrious predecessor, whose footsteps he follows, a great hero.

Mr. KEIM here interposed, and asked what Mr. Van Buren's heroism had to do with the banking system.

The CHAIR decided that the gentleman was in order, as the gentleman said that his remarks had a bearing upon his argument.

Mr. KEIM appealed from the decision of the Chair.

The CHAIR stated that he could not undertake to judge, as to the relevancy of a gentleman's argument, when a gentleman said that his argument had a bearing upon the question. It had been customary here, to allow of great latitude in debate.

Mr. FULLER moved the previous question on the appeal, and Mr. M'CAHEN asked the yeas and nays.

There being some doubt expressed by the Chair, whether the previous question would apply, Mr. FULLER withdrew his demand for it.

Mr. KEIM withdrew the appeal.

Mr. BALDWIN moved an adjournment—lost.

Mr. Cox resumed: This moving adjournments and raising questions of order, discomposes me so much, that I cannot pursue a regular thread of discourse. But, I wish to comment on some of the speeches of gentlemen, made here during the last four or five weeks, of which I have copious notes. I wish, also, to inquire into some of the fundamental doctrines of democracy, and also into the views of the constituents of some of the gentlemen who act under the Van Buren banner.

Mr. MARTIN here rose to a point of order. Under the forty-fourth rule of this body, no one could speak more than one hour, unless by special permission of two thirds of the house. The member was evidently violating the spirit of the rule.

The CHAIR said the same question had been before made. It was a violation of the spirit of the rule, but the decision had been otherwise.

Mr. Cox. Here is another troublesome interruption, but I am determined to bear it all patiently. I want to allude to the opinions of gentlemen's constituents, before I get through, and I hope that gentlemen will try, in the mean time, to keep themselves cool. I want, also, to refer to the report of the secretary of the treasury, if I can find the book.

I find, upon looking at the returns of the deposit banks, in 1836, according to the report of the secretary of the treasury, that a large number of the banks, perhaps a majority of them, at the time the return was made, had from sixteen to twenty dollars in paper circulation for every dollar in specie. Notwithstanding this conduct of the pet banks, there was not a word in the message, to show that there was any doubt as to their solvency. There was no complaint that the public money was in danger, but we were told, on the contrary, that the public money was safer than before.

Why was it that the government did not apprize the people of the extent of the liabilities of these institutions, and put them on their guard against them, in due time? Why did they not recommend it to congress, to take care of the public funds deposited in them? I suppose the reason is, that the administration wanted the support of the pet banks. How is it that this specie-currency-party went on for some years, creating little monsters by the score? They made three hundred and fifty banks in eight years. How does this consist with their pretended and professed principles? The reason was, that they wanted the control and the influence of these banks. If they knew they were to have so dangerous a political influence, it is probable, that for that very reason they were created.

I want the gentleman now to hear, what the old hero says about this paper system. Mr. C. was about reading an extract from a newspaper, when

Mr. BARCLAY rose to a question of order. He wished to know if it was in order for gentlemen to read books to this convention.

Mr. Cox. If the gentleman had had on his specs, he would have seen that it was a newspaper instead of a book, that I was about to read from, and I hope I shall not read anything but what may prove acceptable to gentlemen.

[Go on! go on! proceeded from different quarters.]

The CHAIR called to order.

Mr. Cox. I intend to go on, and I intend to bring to the view of the convention, some of the opinions of the old chieftain, under whom it was glory enough for some gentlemen to serve, in relation to the paper system. I hope the gentleman who has just interrupted me, for attempting to read an extract from the message, is not now going to forsake the old general, when he is in retirement and out of power.

Mr. C. then read an extract from one of General Jackson's messages, in which he said that the paper system had struck its roots deep into our soil, and could not be speedily eradicated, without bringing great evils upon the country.

Now, said Mr. C., some gentlemen who have seats on this floor, are still for adhering to the notions of the old General in this respect, and some are not. Some are desirous that the system should be continued, and others go for putting down all banks. Some are for tearing up the whole system, and others are for putting on a few restrictions and counter-acting all in existence.

At the time this message was sent to Congress, it was the object of the party to raise a cry against all banks, with a view of breaking down the United States Bank and afterwards of destroying the state banks. He then read another extract from the message, in which it was said that it would require a steady and persevering exertion to carry out the views laid down in relation to the paper system. Now, if these banks were so odious to the government at this time, why was it that it had any countenance with them? Why was it that by its course, it multiplied and increased the banks of the country, when it was making use of such language as this towards them? Why was it that the President took the public deposits from one bank and placed them in fifty or sixty institutions in the country? Why was it, that the President pursued this course? Was it not for the very reason that he knew these state institutions would not be able to get along without embarrassment, and then that a hue and cry might be got against them throughout the country, so that they might be broken down. Look at the state of things which existed when the Bank of the United States was the fiscal agent of the treasury, and look at the present lamentable state of affairs. Sir, all past experience convinces me, that this country cannot get along without a national bank. I have believed so for many years, and I have never yet seen any thing calculated to change that opinion: on the contrary, all experience and sound principles have convinced me, that without such an institution, there always will be fluctuations in the currency of our country. All experience has shown that without such an institution, we will have pressures in the money market every three, four or five years, and this state of things, in my opinion, will continue to exist until we have such an institution.

In support of this view of the case, and for the purpose of showing the reckless character of the democratic administration of the general government, I beg leave to read an extract from an oration delivered at Lancaster, in the year 1814 or 1815, or somewhere about that time. The gentleman who delivered this oration, is now a member of that party, generally called the democratic party. but I deny that that party is the democratic party, and before I get through with my argument, I trust I

shall be able to show that this is the case. I will now call the attention of the convention to the following extract from this oration :

“Time will not allow me to enumerate all the other wild and wicked projects of the democratic administrations. Suffice it to say, that after they had deprived us of the means of defence by destroying our navy and disbanding our army; after they had taken away from us the power of creating them, by ruining commerce, the great source of our national and individual wealth; after they had, by refusing the Bank of the United States a continuation of its charter, embarrassed the financial concerns of the government, and withdrawn the only universal paper medium of the country from circulation; after the people had become unaccustomed to, and of course unwilling to bear taxation; and without money in the treasury, they rashly plunged us into war with a nation more able to do us injury than any other in the world.”

Such was the language of an individual, who had now got to be a distinguished member of the administration party. He is now in close communion with the radicals of the present day, who would make us believe by their loud professions, that they are the only pure patriots in the country at the present time.

Such was the language of an individual, who is now a senator of the United States from the state of Pennsylvania, and who was elected by a legislature that called themselves democratic.

He says further that :—

“The democratic party next declared war against commerce. They were not satisfied with depriving it of the protection of a navy, but they acted as though they had determined upon its annihilation.”

Such was the language of a gentleman who now stands at the head and front of this party, that claim to be the exclusive friends of the people, and he too is at this time called a good democrat. He, I presume, is one of those who has been dyed in the wool. One of those who can be one thing to-day and something else to-morrow. One who can be in favor of one set of principles to-day, and another set to-morrow. One who can be in favor of one man to-day, and another man to-morrow.

I have some other documents of the same kind but I shall not refer to them at present, but if I have the opportunity of making another speech to-night, I shall refer to them. I shall now take occasion to refer to some remarks made by the gentleman from Indiana, (Mr. Clarke) on a former occasion. That gentleman, when he addressed the committee of the whole, on the subject of the banking system, had said that the banking system and its abuses, had been the cause of making wheat so high, as well as all other produce of the country. Now if this was the case, I suppose the farmers of our state will have no particular objection to the system, because they will always get a high price for their produce while the system is kept up. Certainly, if the banking system had a tendency to keep up the price of the produce of the country, as the gentleman from Indiana has contended, the farmers will not object to it, because they are just like all other persons, they like to make as much money as they can honestly.

But the gentleman has said that it was caused in this way: The creation of so many banks, had made many speculators; drawn off attention from agricultural pursuits, and had prevented much grain from being raised in this country within the last two or three years. Now, sir, said Mr. C., it is a notorious fact that the wheat crops of this country, for some years back, have been destroyed by the hessian fly, and if the gentleman means to say, that the creation of so many banks has bred the hessian fly in this country, I cannot tell how he came to his conclusion. It is a well known fact, that in the counties of Columbia, Franklin, York, Lancaster, Chester, Berks, Schuylkill, and a vast number of other counties, the wheat was almost entirely destroyed by the fly. That was generally understood. Then, if it be true that the banks have been so entirely worthless, and so corrupt as a body, to breed the hessian fly, which destroyed our grain, and almost brought the good people of this country to starvation, it is high time that some restrictions should be placed upon them. But, sir, this is an entirely new idea to me, and I should like to know of some of these gentlemen who are informed upon the subject, in what department of the bank this fly was created.

It seems to me that gentlemen ought to examine into this subject, for it is of great importance to the farmers of this state. If the gentleman from Indiana will only prove to my satisfaction, and to the satisfaction of the people of Pennsylvania, that the banks were the origin of the fly which destroys our wheat, I will pledge myself to go for any restrictions which he may ask, and I will further pledge myself, that the people of Pennsylvania will sustain him in his restrictions.

Now, sir, as the gentleman from Susquehanna, the gentleman from Indiana, and some other gentlemen, are so much opposed to all paper money, and are in favor of nothing but gold and silver, and wish to keep every thing like banks and bank paper out of the community, I will make a bargain with them in relation to this matter. If they will propose to this convention any plan by which they can prevent all paper money from circulating through, or going into their counties, I will vote for it. I am willing that they should exclude it entirely from circulation in their districts. I will allow them to keep it out of circulation entirely in their own counties. I hope they will allow us to have what we want in our counties.

If these gentlemen wish to have all paper money excluded from their counties, and will introduce a proposition which will apply alone to their own counties, I think we can all vote for it, and they can then have all the advantages of their hard money project. They can destroy the credit system entirely in their own counties, and then they will see how the gold humbug will work. They can then have a fair opportunity of trying the experiment, without injuring any body, but their own constituents. I have no particular objections to their taking care of their own constituents, as they think fit; but, I am not willing that they should destroy the credit system in my county, and in those counties where I know the people are favorable to it.

I shall now bring to the notice of the convention, an extract from a certain document, in relation to the sub-treasury scheme, because that is to have a very material and a very important bearing on the banking institutions of the country.

The extract I am about to read, is from one of the messages of Andrew Jackson, and I select it, because I think it will be looked upon by gentlemen, as being sufficiently orthodox, and I hope the gentleman from Westmoreland (Mr. Barclay) will pay particular attention to it, as he at one time would have stood by this message against the world. Well, General Jackson, in this message says that,

“ To retain it in the treasury, unemployed in any way, is impracticable. It is, besides, against the genius of our free institutions, to lock up in vaults, the treasure of the nation.”

President Jackson, in this message said that “ it is against the genius of our free institutions, to lock up in vaults, the treasure of the nation ” Now, is it not passing strange, that in one short year, or less, after such a sentiment as this was promulgated by the leader of the party, that the party should go for the very measures here deprecated ? Was it not strange, that in less than a year from the time that this opinion was expressed, that a special session of congress should be called, for the purpose of having the money of the nation locked up in vaults, and giving the government the right to issue shinplasters for it.

The CHAIR here announced to the delegate, that the hour, which the rule prescribed, had expired.

Mr. Cox : Has the Chair taken into account the interruptions which I met with, by being called to order, and prevented from proceeding regularly ?

The CHAIR said, that he had taken these into account.

Mr. M'CAHEN moved that the gentleman have leave to proceed. Lost without a division.

Mr. PORTER, of Northampton, moved that the convention adjourn.

Tellers were called for by several gentlemen.

The CHAIR said, that there was no rule of the house, for the appointment of tellers. The Chair had appointed tellers once or twice, in the course of the evening, to aid, him when there was considerable confusion in the hall, but there was no rule to authorize it.

The PRESIDENT then divided the house, and announced fifty-five in favor of adjourning and fifty-three against it.

Mr. FULLER : I have counted as many as sixty in the negative. I therefore appeal from the decision of the Chair, and ask for tellers.

The CHAIR stated that he had counted with great care.

Mr. EARLE : I counted very carefully, and I counted fifty in the affirmative and sixty in the negative.

Mr. WOODWARD said, there was evidently a clear majority against adjourning, and he hoped tellers would be appointed to satisfy the convention of the fact.

The CHAIR said, there was no rule of the convention, which authorized the appointment of tellers.

Mr. **STERIGERE** hoped that the Chair would count again, so that the convention might be satisfied as to the accuracy of the count.

Mr. **FULLER** : I have appealed from the decision of the Chair, with a view of having tellers appointed, and I now insist upon that motion being carried out.

The **CHAIR** then appointed Mr. **DENNY** and Mr. **DONAGAN** tellers, who counted and announced fifty four in the affirmative, and sixty-one in the negative.

So the motion to adjourn was disagreed to.

Mr. **DUNLOP** then called for the yeas and nays on his amendment, which were ordered, and were—yeas 23 ; nays 90 ; as follow :

YEAS—Messrs. Baldwin, Brown, of Lancaster, Cochran, Crum, Cunningham, Darlington, Dickey, Dunlop, Hays, Meredith, Merrill, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Royer, Russell, Sill, Snively, Sturdevant, Thomas, Todd, Young—23.

NAYS—Messrs. Banks, Barclay, Barndollar, Barnitz, Bedford, Bell, Biddle, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Carey, Chandler, of Chester, Chandler, of Philadelphia, Clapp, Clark, of Dauphin, Clarke, of Indiana, Cleavinger, Coates, Cox, Craig, Crain, Crawford, Cummin, Curll, Darrah, Denny, Dickerson, Dillinger, Donagan, Donnell, Doran, Earle, Farrelly, Fleming, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Hastings, Hayhurst, Helfenstein, Henderson, of Dauphin, Hiester, High, Houpt, Hyde, Ingersoll, Jenks, Keim, Kennedy, Konigsmacher, Krebs, Long, Lyons, Maclay, Magee, Mann, Martin, M'Cahen, M'Call, M'Sherry, Merkel, Miller, Overfield, Porter, of Northampton, Reigart, Read, Ritter, Saege, Scheetz, Scott, Sellers, Seltzer, Serrill, Shellito, Smith, of Columbia, Smyth, of Centre, Sterigere, Stickel, Taggart, Weaver, Weidman, Woodward, Sergeant, *President*—90.

So the amendment was rejected.

Mr. **PORTER**, of Northampton, moved to amend the amendment, by inserting after the word "commonwealth," the words : "in such manner, however, that no injustice shall be done to the corporators."

Mr. **INGERSOLL**, of Philadelphia county, said he did not recollect whose amendment it was that was now proposed to be amended. He hoped, however, that no injustice would be done to any body.

Mr. **CAREY**, of Bucks, asked for the yeas and nays.

And, the question being taken on the amendment to the amendment, it was decided in the affirmative—yeas 94 ; nays 21 ; as follow :

YEAS—Messrs. Agnew, Baldwin, Banks, Barndollar, Barnitz, Bedford, Bell, Biddle, Bigelow, Bonham, Brown, of Lancaster, Brown, of Northampton, Carey, Chandler, of Chester, Chandler, of Philadelphia, Clapp, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Cleavinger, Coates, Cochran, Cox, Craig, Crain, Crawford, Crum, Cummin, Cunningham, Darlington, Denny, Dickey, Dickerson, Donagan, Donnell, Doran, Dunlop, Fleming, Gamble, Gearhart, Gilmore, Harris, Hayhurst, Hays, Henderson, of Dauphin, Hiester, Ingersoll, Jenks, Keim, Kennedy, Kerr, Konigsmacher, Krebs, Long, Lyons, Maclay, Martin, M'Cahen, M'Call, M'Dowell, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Porter, of Northampton, Purviance, Reigart, Read, Ritter, Ritter, Royer, Russell, Saege, Scheetz, Scott, Sellers, Seltzer, Serrill, Shellito, Sill, Smyth, of Centre, Snively, Sturdevant, Taggart, Thomas, Todd, Weaver, Weidman, Woodward, Sergeant, *President*—94,

YAYS—Messrs. Barclay, Brown, of Philadelphia, Curll, Darrah, Dillinger, Foulkrod, Fry, Fuller, Grennell, Hastings, Helffenstein, High, Houpt, Hyde, Magee, Mann, Miller, Overfield, Smith, of Columbia, Sterigere, Stickel—21.

The question then recurred on agreeing to the amendment as amended.

Mr. FARRELLY, of Crawford, asked for the yeas and nays,

And the question being taken, it was decided in the affirmative—yeas 86; nays 29; as follow:

YAYS—Messrs. Agnew, Banks, Barclay, Barndollar, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Carey, Clapp, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Cleavinger, Cochran, Craig, Crain, Crawford, Crum, Cummin, Cunningham, Curll, Darrah, Dickerson, Dillinger, Donagan, Donnell, Doran, Earle, Fleming, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grennell, Hastings, Hayhurst, Helffenstein, Hiester, High, Hyde, Ingersoll, Jenks, Keim, Kennedy, Kerr, Konigmacher, Krebs, Lyons, MacLay, Magee, Mann, Martin, M'Cahen, M'Call, M'Dowell, Merkel, Miller, Montgomery, Overfield, Porter, of Northampton, Purviance, Reigart, Read, Riter, Ritter, Royer, Russell, Saeger, Scheetz, Sellers, Seltzer, Shellito, Smith, of Columbia, Smyth, of Centre, Sterigere, Stickel, Sturdevant, Taggart, Thomas, Weaver, Woodward—86.

NAYS—Messrs. Baldwin, Barnitz, Biddle, Brown, of Lancaster, Chandler, of Chester, Chandler, of Philadelphia, Coates, Cox, Darlington, Deuny, Dickey, Farrelly, Harris, Hays, Henderson, of Dauphin, Houpt, Long, M'Sherry, Meredith, Pennypacker, Pollock, Porter, of Lancaster, Scott, Seirill, Sill, Snively, Todd, Weidman, Sergeant, *President*—29.

Mr. STERIGERE moved that the amendment be engrossed for a third reading.

Mr. WOODWARD hoped that the first article would be disposed of this morning. We were obliged to sit all day yesterday to dispose of the amendments which had been for five weeks under consideration. He hoped the subject would be now finally disposed of.

Mr. INGERSOLL: I do trust that the whole article will be disposed of to-night.

Mr. DENNY submitted whether it was proper to order the engrossment, before the question had been taken on the motion made by the gentleman from Philadelphia, (Mr. Chandler) to reconsider the vote on the subject of divorces.

Mr. INGERSOLL saw no reason why the subject of divorces should not be acted on now. He regarded it as a subject of vastly greater importance than this.

The amendments were then ordered to be postponed and engrossed for a third reading; and the amendments were referred to a committee for that purpose.

Mr. GRENNELL moved an adjournment. Lost.

Mr. STERIGERE moved that when this convention adjourns, it adjourn to meet on Monday morning.

Mr. DICKEY demanded the yeas and nays on this motion, and being taken, they were as follow:

YAYS—Messrs. Agnew, Baldwin, Barclay, Barnitz, Bell, Bonham, Brown, of Philadelphia, Carey, Chandler, of Chester, Chandler, of Philadelphia, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Coates, Crain, Cummin, Cunningham, Curll, Darlington, Dillinger, Donagan, Doran, Farrelly, Fleming, Foulkrod, Gamble, Gilmore, Hastings, Helffenstein, Henderson, of Dauphin, Hiester, Hyde, Ingersoll, Jenks, Long, Lyons, Martin, M'Cahen, M'Dowell, Meredith, Merrill,

Overfield, Porter, of Lancaster, Porter, of Northampton, Purviance, Reigart, Read, Riter, Russell, Scheetz, Scott, Sellers, Serrill, Sterigere, Sturdevant, Taggart, Thomas, Weaver, Woodward, Sergeant, *President*—60.

NAYS—Messrs. Banks, Barndollar, Biddle, Bigelow, Brown, of Lancaster, Clapp, Cleavinger, Crawford, Crum, Darrah, Denny, Dickey, Donnell, Earle, Fuller, Gearhart, Hayhurst, High, Houpt, Keim, Kennedy, Konigsmacher, Krebs, MacLay, Magee, McCall, McSherry, Merkel, Miller, Montgomery, Pollock, Ritter, Saeger, Seitzer, Shellito, Smith, of Columbia, Smyth, of Centre, Snively, Stickel, Todd—40.

So the question was determined in the affirmative.

The convention then adjourned at half past one o'clock on Saturday morning, until half past nine o'clock on Monday morning.

MONDAY, JANUARY 15, 1838.

Mr. MEREDITH, of Philadelphia, presented a memorial from citizens of Philadelphia, praying that the constitution may be amended, in the provision relative to the qualifications of voters, by inserting the word "white," so that it should read "every free white citizen of the age of twenty-one years," &c. shall have the right of election.

Mr. MEREDITH moved that the memorial be printed.

Mr. EARLE, of Philadelphia county, moved to amend the said motion by adding to the end thereof the words following, viz ; "and that the memorial of Charles W. Gardner and Frederick A. Hinton, in behalf of the people of colour, in the city and county of Philadelphia, presented on the 6th instant, be also printed.

Mr. DICKEY, of Beaver, asked for the yeas and nays on the amendment, and they were ordered.

Mr. BROWN, of Philadelphia county, expressed a hope that the memorial would be printed. It contained an able argument on the subject. He hoped that all the documents would be before the convention before the discussion came up.

Mr. HIESTER, of Lancaster, thought it was not in order to take up a motion to print a memorial which had been rejected by the convention.

The **PRESIDENT** decided that the motion was in order, as it was to connect the printing of this document with that of another.

Mr. BANKS, of Mifflin said, much as he was willing to grant the right of petition to its full extent, and to listen to all petitions which might be sent in to the convention, he was not in favor of this motion to print. The gentleman from Philadelphia county, (Mr. Brown) had said we ought to

have all the documents before us. He had doubts if that gentleman would read them all if they were before us. He was opposed to the printing of all petitions, since the gentleman from Allegheny presented his petition.

Mr. MEREDITH, hoped the memorial would be printed. We want all the information within our reach, and time for reflection. He thought the subject important, and one which would require serious consideration. He would wish to see both memorials printed.

Mr. MACLAY, of Mifflin, said he did not recollect that any question was taken on the petition of the people of colour last week. He did not know that such was the fact. He merely gathered it from the journal.

The question was then taken on the motion of **Mr. EARLE**, and decided in the negative, by the following vote, viz :

YEAS—Messrs. Agnew, Ayres, Barnitz, Biddle, Bondham, Brown, of Lancaster, Brown, of Philadelphia, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Clarke, of Beaver, Clark, of Dauphin, Costes, Cope, Cox, Craig, Crain, Cummin, Denny, Dickey, Donagan, Earle, Farrelly, Hays, Henderson, of Allegheny, Hiester, High, Konigsmacher, Maclay, M'Cahen, M'Sherry, Meredith, Merrill, Pollock, Purvince, Reigart, Ritter, Royer, Seager, Scott, Sill, Sterigere, Stickel, Thomas, Todd, Young, Sergeant, *President*—48.

NAYS—Messrs. Banks, Barclay, Barndollar, Bedford, Bigelow, Brown, of Northampton, Clapp, Clarke, of Indiana, Cline, Cochran, Crawford, Crum, Curll, Darrab, Dickerson, Dillinger, Donnell, Fleming, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Harris, Hastings, Hayhurst, Henderson, of Dauphin, Hopkinson, Houpt, Hyde, Ingersoll, Keim, Kennedy, Kerr, Krebs, Magee, Mann, Merkel, Miller, Montgomery, Nevin, Overfield, Payne, Read, Riter, Russell, Sellers, Seltzer, Shellito, Smith, of Columbia, Smyth, of Centre, Snively, Sturdevant, Taggart, Weaver, White, Woodward—59.

The question being on the motion to print,

Mr. BIDDLE said, that inasmuch as this body had thought proper to decline printing a petition on one side of this subject, and had laid it on the table, he should vote against printing the other memorial, although, under other circumstances, it would have given him the greatest pleasure to have voted for its printing.

Mr. EARLE said, there was in our community two classes of inhabitants, of different complexions. This convention has received the petition of one class, and treated it with all that respect which was at all times due to petitions presented to representative bodies. It must be recollected too, that the petition on this side was for the purpose of proscribing another class, and depriving them of a part of their rights. Then, when this class which was about to be proscribed, send up their petition, and ask that they may be treated as the other class of persons were treated, by giving their petition a respectful hearing, they are refused the right by this convention. Under what circumstances too, was this done? On the one side, the whole convention stood ready to defend and maintain their rights, while, on the other side, there was not a single individual to raise his voice on their behalf. One class is fully represented here, while the other has not a representative to assert and maintain their rights. We have here voted not to permit or hear the petition of the other class. He thought it was the duty of a legislative body, to do equal justice to all peti-

ioners, therefore, as the convention had refused to print the one petition, he hoped it would also refuse to print the other.

Mr. M'CAHEN said, that he had voted on all occasions for the printing of memorials on all sides. He had voted for the printing of the petition presented by the gentleman from Allegheny, from the free negroes of Pittsburg, and it would have given him great pleasure to have voted for the printing of both the petitions now before the convention, but, inasmuch as they had refused to print the one which had been presented this morning, he hoped they would not agree to print the other. If it was the will of the convention to print both, he would vote for both, as he had heretofore voted for the printing of all, which had been presented, but if they refused to print the one, he thought it would be improper to print the other.

Mr. MEREDITH could not believe for one moment, that this body, when asked to print two documents of the character of the two now before the convention, would order the one to be printed, and refuse to print the other. He thought there must be some mistake or misunderstanding about this matter, or that the members of the body had voted against the printing of this memorial from inattention more than any thing else. He still hoped that some gentlemen who had voted in the negative, would move to reconsider that vote, so that we may have both memorials printed. If no gentleman made this motion, and it was refused to print this memorial, he thought that no gentleman who was friendly to the motion which he had made to print the other memorial, could complain, if the convention also refused to print it. For his own part, he must say that he had not entirely made up his mind in relation to the subject embraced in these memorials, and he was anxious to see all the arguments which could be brought to bear on both sides. He thought it to be a question which every gentleman ought to examine with great care, in order to come to correct conclusions, and he was astonished to find that any portion of this body should be in favor of printing memorials on one side, while they refused to print those of the other side.

Mr. STRICKER desired to say a word in reply to the remarks just made by the gentleman from the county of Philadelphia, (Mr. Earle) as that gentleman had spoken in rather severe terms about our refusing to print the petition of one class of citizens, while we agreed to print the petitions of another class. He (Mr. S.) had voted to print this negro petition, but he had not voted to print it because of their having a right to come here with their petitions, but merely because he wanted to know what they had to say. Strictly speaking, he did not believe that they had any right to send their petitions here. Who is it in our country, that has the right of petition? Why, sir, it is *citizens* and *citizens* only. Believing that the negro population never were citizens, he believed they had no more right to come here with their petitions than the subjects of the king of England, or the king of France. But notwithstanding, he believed this, he had yielded and voted to print their petition, because he wished to give them a fair opportunity of being heard. He had voted to give them this right of being heard, although, in strict justice, they had no right to claim it. He had risen merely to say this much in reply to the gentleman from the county of Philadelphia, who had made so much complaint about refusing to print the petitions of one class, while they printed those of another class.

Mr. EARLE would inquire of the gentleman from Montgomery, if he did not consider this class of persons *citizens*?

Mr. STERIGERE certainly did not consider them citizens of this state.

Mr. BROWN, of the county of Philadelphia, hoped that the gentleman from the city would withdraw his motion to print this memorial, so that this discussion might be put an end to.

Mr. MEREDITH would prefer that the motion to postpone should be agreed to, if any gentleman would make that motion.

Mr. BROWN, then moved to postpone the further consideration of this subject.

Mr. DICKEY cared not whether the motion to postpone was sustained, but he was extremely sorry to hear the gentleman from Montgomery, (Mr. Sterigere) say that those persons of colour had no right to come here with their petitions, because they were not citizens. Why, sir, the laws of this commonwealth recognize the right of aliens to hold property, and why should we refuse to hear the petition of those who are much nearer to us than aliens—of those who have been born upon our soil, and reared up among us. I sir, (said Mr. D.) would hear the petition of any man, whether he was a black faced or a black headed man—whether his skin was white, black or yellow. What, sir, is a petition? It is a prayer—a supplication—to those in power to do justice to those who are under the laws. Then is the black man not to have the right to supplicate for justice and mercy at our hands. What, sir, is this petition which we have refused to print? It is a petition which was presented by a gentleman from the city of Philadelphia, from persons of colour; and it is respectful in its character, and of an argumentative nature. These memorialists believe that they are entitled, and ought of right to exercise the rights of citizens, when they are subject to taxation. They believe, as our fathers believed, that taxation and representation went hand in hand. They believe that when you tax their property, you ought to grant them the privilege of participating in all the rights and duties of citizens of the state.

In this they may be mistaken, because I see by a decision lately made in one of the courts of this commonwealth, it is declared that they have not, and never had, the right to exercise the right of suffrage. They however, believe otherwise, and they furthermore believe that this right is about to be taken away from them, and, entertaining this belief, they send their memorial here remonstrating against it, and presenting arguments in support of their views of the question. Well, on former occasions we have ordered the printing of memorials on the other side of this question and is it now to be said that we will refuse the printing of this paper, giving the views of these petitioners to the convention?

Why is it that this is refused? Are gentlemen afraid that the arguments of these persons of colour, will convince them that they are about to do a wrong; when they are about to do that which was not done by the framers of the constitution of 1790? Are gentlemen unwilling that the views of these petitioners should be laid before an enlightened public? Are they afraid that the respectful arguments of these petitioners will con-

since the public of the justice of their cause? Are they themselves afraid to hear what these petitioners have to say, with regard to what they seem to be their rights. Why, sir, I would hear the petition of any person who claimed to be a citizen—I would hear the petition of an alien—I would hear the petition of an unfortunate and oppressed slave, if there were any such in Pennsylvania; but thank God, there are none, unless be the slaves of party, and even their petition would I listen to. I would hear the petition of citizens, of aliens, of slaves, or even of a packed grand jury. I would hear what was to be said on every side of every question, before I would make up an opinion, which might go to deprive a number of persons, inhabitants and citizens of our state, of their rights. I would hear all that was to be said on every side of a question, and every freeman, in my opinion, ought to be willing to do the same. Certainly, one, but those who are afraid to hear the truth, can be unwilling to have the petitions of these people of colour printed.

I hope the motion to postpone, will not be agreed to, because I wanted to see who would vote in favor of printing one of these petitions, and against the other.

Mr. FULLER was opposed to this motion to postpone. Inasmuch as the convention had refused to print one of these petitions, he wished to have the opportunity of recording his name against the printing of the other. He thought, to vote now, to print this memorial, after having refused to print the other, would be showing such an absolute partiality, as did not well accord with the republican principles of this Commonwealth.

I must say for myself, that I cannot vote for its printing; and, in conclusion, I have only to say, that I was fearful the gentleman from Beaver, (Mr. Dickey) would forget to lug in "party" on this occasion, but true to the faith that's in him, before he closed, he let us know, as he has done on all former occasions, that "party" was uppermost in his mind.

Mr. M'CAHEN would go as far as the gentleman from Beaver in printing petitions. He, too, would print the petition of "the slaves of party," or even the petition of political traitors.

Mr. MEREDITH thought this discussion entirely out of place, and uncalled for. He, therefore, moved the previous question, which motion was not seconded by the requisite number.

Mr. HOPKINSON said, that he had heretofore voted against the printing of all petitions, and he should now vote against the printing of this petition, as he had against the one presented this morning. He did not think that the printing of petitions ought to be resorted to, as an evidence of respect for any body or any class in society. You treat a man with all respect due to him when you receive his petition; that is all the respect which any man has a right to ask at your hands, and as for printing petitions, as an evidence of respect for the petitioners, he never had heard of it before.

The printing of petitions was never intended as an evidence of respect for the petitioners, but is merely intended for the use and convenience of the members of the body to which the petition is presented. Petitions

presented to the legislature, frequently contain facts, which it may be necessary for all the members of the body to be acquainted with, to enable them to decide correctly upon the matter. In such a case, it is necessary and proper that the petitions should be printed. As to this question, however, every gentleman could argue it, and decide upon it, just as well without the petition being printed, as with it, and he could never vote for the printing of a petition, merely with a view of showing our respect for the petitioners. We have not printed the petitions of hundreds and thousands of our white citizens, and the mere fact that these petitioners are blacks, ought not to entitle them to be treated with any more marked respect than others. For these reasons, he should vote against the printing in all cases of a similar character.

Mr. MEREDITH said, that he had made the motion to print this memorial, with the desire that both the petitions should be printed. But, inasmuch as the house had seen proper to refuse to print the other petition, he was now perfectly willing that the motion to postpone should be agreed to; and he should suppose that when gentlemen found the mover in this matter willing to have it postponed, that it would be decided upon without further debate. If it was postponed for the present, he would promise that he would not call it up again. He would not withdraw the motion, because he did not feel himself at liberty to do so, after a vote had been taken on it, but he was perfectly willing that it should be postponed, and there rest.

In relation to what had been said by his colleague, (Judge Hopkinson) he had only to say, that he had never urged respect for the petitioners, as a reason for printing their petition. For his own part, however, he felt that although we might be enabled to come to correct conclusions, from the operations of our own minds, still he thought, when arguments were presented to us, in the shape of petitions, that we ought to have the full benefit of them, by having them printed, and laid upon our tables. He repeated, however, that he was in favor of this motion to postpone, because he could not agree that a petition on one side should be printed, when we refused to print the petitions on the other side, and because it would do away with the necessity of taking a vote directly on this question.

The question was then taken on the motion to postpone, and decided in the affirmative.

Mr. BIGELOW then presented a petition, of citizens of Westmoreland county, praying that the coloured population of this state may not have the right of suffrage conferred upon them;

Which was laid on the table.

Mr. KEIM presented three petitions of similar tenor;

Which were laid on the table.

Mr. KEIM also presented a petition from inhabitants of Berks county, praying that the convention adjourn *sine die*,

Which was read and laid on the table.

Mr. M'DOWELL presented a petition of citizens of Bucks county, praying that no change may be made in the constitution, in relation to the complexion of the persons entitled to the right of suffrage;

Laid on the table.

Mr. COATES presented the petition of fifty females, citizens of Pennsylvania, praying that the right of trial by jury may be extended to every human being.

Laid on the table.

Mr. SELLERS presented a petition from citizens of Montgomery county, praying that the right of suffrage may not be extended to negroes.

Laid on the table.

Mr. CHAMBERS submitted the following resolution, which lies over one day.

Resolved, That so much of the thirty-third rule of the the convention, as dispenses with the yeas and nays on questions of daily adjournment, be rescinded.

Mr. CHAMBERS said, that before proceeding to the consideration of the orders of the day, on the second article of the constitution, he would ask the attention of the convention to the motion to re-consider the vote adopting the amendment submitted by a delegate from Chester, on the subject of divorces.

It was true, that on Friday, the convention had ordered the first article to be engrossed, and referred to the committee of revisal, yet, after a motion to re-consider had been made, within the time prescribed by the rule, and pending, he thought, the amendment thus adopted, must be considered as inchoate, imperfect, and not as coming within the consideration or action of that committee, until it was acted upon definitely. He had no desire to throw any embarrassment in the way of the first article of the constitution, or consume the time of the convention on this question, but he desired to have that vote re-considered, with a view of disposing of that amendment differently.

He saw, however, that the gentleman from Chester, who had proposed this amendment, was absent from his seat, and, in consequence of that absence, he should decline calling up the question for the present. He would give notice, however, that he would call up that question, in order that it might be disposed of, as soon as the gentleman appeared in his seat, and an opportunity offered.

SECOND ARTICLE.

Agreeably to order,

The report of the committee, to whom was referred the second article of the constitution, as reported by the committee of the whole, was read the second time.

The first section was in the words following, viz :

" SEC. 1. The supreme executive power of this commonwealth, shall be vested in a governor,"

Was considered, and no amendment having been offered, the same was agreed to.

The second section of the said report, as amended by the committee of the whole, being under consideration as follows, viz :

" SEC. 2. The governor shall be chosen by the citizens of the commonwealth, at the time and place where they shall respectively vote for representatives. The returns of every election for governor, shall, be

sealed up, and transmitted to the seat of government, directed to the speaker of the senate, who shall open and publish them in the presence of the members of both houses of the legislature. The person having the highest number of votes shall be governor. But, if two or more, shall be equal and highest in votes, one of them shall be chosen governor by the joint vote of the members of both houses. Contested elections shall be determined by a committee, to be selected from both houses, of the legislature, and formed and regulated in such manner as shall be directed by law."

And the question being, on concurring in the amendment of the committee of the whole,

Mr. SCOTT said, that, in the first article, the convention had fallen back upon the old constitution, and had agreed upon the old day of election. He thought that, with a view to make the second article correspond with the first, this amendment should be non-concurred in.

Mr. M'SHERRY said, that if this amendment was disagreed to, the provision of the old constitution would be restored.

And, after some desultory conversation,

The said amendment was disagreed to.

The third section of the said report, as amended by the committee of the whole, being under consideration, as follows, viz :

"SEC. 3. The governor shall hold his office during three years, from the third Tuesday of January, next ensuing his election, and shall not be capable of holding it longer than six, in any term of nine years."

A motion was made by Mr. REIGART,

To amend the said section, by striking therefrom, the word "three," where it occurs in the first line, and inserting in lieu thereof, the word "four;" and by striking therefrom the word "six," in the third line, and inserting in lieu thereof, the word "four;" and by striking therefrom the word "nine," in the last line, and inserting in lieu thereof, the word "eight."

Mr. STERIGERE rose to inquire of the Chair, if this amendment was in order; and whether all amendments now offered, must not be confined to amendments to the committee of the whole?

Mr. REIGART said, that he thought if the gentleman from Montgomery, (Mr. Sterigere) would look more closely at this proposition, he would discover that it was in order; and that it went to the amendment made in committee of the whole.

My reasons, said Mr. R., for offering this amendment, are few and simple. When this subject was under consideration at Harrisburg, I offered an amendment of a similar character to this, which, however, went a little further than I now propose to go. At the time alluded to, there was no direct vote taken on this question; the yeas and nays were not called, and it is merely with a view to test the sense of the convention that I now propose this amendment. I will state one or two of the reasons which have influenced my mind in regard to this particular subject.

So far as I have understood public opinion in the state of Pennsylvania, it has always been a subject of complaint with our citizens, that, after an individual had been elected governor for one term, and looked to retain the office during a second term, all his appointments were made, and all his acts were performed, with reference to that especial object. The amendment which I propose, extends the time, during which the office may be held, but removes the objection complained of, because the same individual cannot be re-eligible in any term of eight years. It strikes me, and always has struck my mind, that this would be a great improvement in our system. I do not know how the opinions of the members of this body may be disposed towards the amendment, but I have felt it to be my duty to bring it before them, and to have an expression of their sentiments upon it as a distinct, substantive proposition. I shall be happy if I can prevail on a majority of this body to acquiesce in the view which I have taken, as to the good results which may be anticipated from a provision confining the governor to a single term.

Mr. EARLE rose to ask the decision of the Chair on the point of order, raised by the gentleman from Montgomery, (Mr. Sterigere.)

The CHAIR decided that the amendment of the gentleman from Lancaster (Mr. Reigart) was in order.

Mr. READ moved to amend the amendment by striking out all after the word "election" in the second line, and inserting the words "but shall not be re-eligible."

The CHAIR said, that the amendment of the gentleman from Susquehanna (Mr. READ) was not in order at this time, inasmuch as an amendment was pending to the report of the committee of the whole.

Mr. READ said, that although he differed from the Chair, and was of opinion that his amendment would be in order at this time, inasmuch as the convention were now considering this as an original section, still he would not consume any time in the discussion of that point.

I will, however, said Mr. R., make one or two brief observations on the question before us. I hope that the report of the committee of the whole will not be agreed to, and, although I think the amendment of the gentleman from Lancaster (Mr. Reigart) is better, still I believe my own is preferable to both.

I will state two reasons why my amendment should be adopted. In the first place, it would take away from the governor all motive to act on any other principle upon earth, save that of the general good alone.

In the second place, it would take away from the party which had opposed his election, all possible motive for mis-representing his measures, or obstructing the course of policy which he might think most proper, and which he might believe was best calculated to promote the welfare and the happiness of the people. It would induce the governor to look solely to the public good, and it would induce the party which had exerted their strength against him, at the time of his election, to treat his measures fairly, and not to misrepresent his purposes with a view to political effect. Both parties, therefore, would have an interest to act fairly and honestly, one towards the other. For these reasons, I shall

offer my amendment, in case that of the gentleman from Lancaster should not obtain the votes of a majority of the convention.

Mr. DUNLOP said, he should feel very much gratified, if gentlemen would place these amendments before the convention in such a manner, as that there would be no conflict between them. This might be effected, if the gentleman from Lancaster (Mr. Reigart) would consent to withdraw the latter part of his amendment, or the whole of it, temporarily, in order to afford an opportunity to the gentleman from Susquehanna, (Mr. Read) to have a vote taken on that which he had intimated his intention to offer, when it should be in order. It was something like taking the question on the longest time.

The votes should be first taken on the longest time, or the widest proposition—which, in this instance, would be that of the gentleman from Susquehanna;—and, if that was decided in the negative, then the vote should be taken on the more limited proposition of the gentleman from Lancaster, (Mr. Reigart.) He threw out this suggestion, in the hope that the two gentlemen would be enabled to come to an understanding with each other, of this nature.

Mr. READ urged on the gentleman from Lancaster, (Mr. Reigart) the propriety of yielding to the suggestion of the gentleman from Franklin, (Mr. Dunlop); because, said Mr. R., if he will give me an opportunity to offer my amendment, and that should be rejected, I will certainly give my vote in favor of his. By adopting this course, we might be enabled to get a vote on each proposition, uninfluenced by the other.

Mr. REIGART said, that if a part of the amendment which he had offered could be withdrawn, so as to allow a distinct vote to be taken on the proposition of the gentleman from Susquehanna, (Mr. Read) he, Mr. Reigart, would not make any objection. For example, if all after the word "election" can be withdrawn, I am willing it should be so, in order to afford an opportunity to the gentleman from Susquehanna to offer, and have a vote taken, on his amendment.

The CHAIR said, that it was in order for the gentleman from Lancaster so to modify his amendment, if he thought proper to do so.

Mr. REIGART then modified his amendment accordingly; remarking, at the same time, that he reserved to himself the right to renew this portion of the amendment at a future time.

Some debate here arose on a point of order, growing out of this modification; some delegates contending that it was not in order thus to mutilate the section.

And the debate was brought to a close by Mr. REIGART, who moved to restore the amendment, so as to place it before the convention in the form in which he had originally presented it.

Mr. WOODWARD said, that if he understood the proposition of the gentleman from Lancaster, (Mr. REIGART) it provided that the governor should be elected for the term of four years, and that he should be ineligible for one term afterwards.

I rise, said Mr. W., merely to say that this is precisely the amendment of which I am in favor, and for which I am willing to vote; and also,

that I am opposed to the proposition of the gentleman from Susquehanna. I hope the former will receive the unanimous vote of this body, if indeed, it is not too much to hope that any amendment will be unanimously agreed to here. It appears to me, from such consideration as I have given to the matter, that all the reasons which can be brought forward, are entirely in favor of this amendment. I will not detain the convention by entering into those reasons; to my mind, they are so obvious and so forcible, as to bring conviction at once to the understanding of every member of this body. I need not, therefore, allude to them further. I will only say, that the prevailing reason with me for supporting this amendment, is, because it will dignify and elevate the executive office. It is for this reason, as well as for others which I need not mention, that I am prepared to go for the specific amendment of the gentleman from Lancaster.

Mr. CHAMBERS said, he was in favor of the proposition of the gentleman from Lancaster, and that he preferred it to that which had been brought to the notice of the convention by the gentleman from Susquehanna. To limit the governor to one term, said Mr. C., will be to adopt a provision, under which, the administration of our state government will be carried on, with reference exclusively to the public interests, and not with a view to subserve the interests of a particular party, or the interests of the individual who, for the time being, may be placed at the head of our government.

But, although, as a matter of sound policy, I would confine the governor to one term, still I would not exclude from holding that office for ever afterwards. The object of excluding the governor from being re-elected for a certain period of time is, that he may have no object in using his situation for party purposes, or for the advance of party interests; and when this object is accomplished by the adoption of a provision in the constitution, requiring that he shall be elected only for four years in any term of eight years, all will be done that need be done. Such a provision will be amply sufficient to guard and protect us against his influence, inasmuch as he will not be able to turn it to any available purpose. But, after a lapse of an interval of four years or more, I am not able to discover any good reason why he should not be re-eligible, in case the people of the commonwealth should be desirous again to elect him.

What is the mischief we propose to avert, by confining the governor to one term? It is to prevent him from using the influence of his station to promote the objects and the interests of the party, by whom he may have been brought into power, and from thus withdrawing his attention from the duties of his office.

But, when he has again resumed the character of a private citizen—when, for the space of four years, he has again been placed on an equality with all the other citizens of the commonwealth—he has nothing but his merits to stand upon, and if he has been a good and faithful officer for a term of four years—if he has administered the affairs of the state, so as to promote the interests, and secure the approbation, of the people, I say, I can see no reason, why we should prohibit him from being again elected to the same office, for another term. This would, in fact, be to

place a restriction on the people of the commonwealth; it would, in my opinion, be a restriction on their political rights, in taking away from them the privilege to elect to the highest office in the state, a man who, on a former occasion, had served them faithfully and satisfactorily.

But, by adopting a provision, allowing the same individual to serve as governor for only one term at a time, and allowing him to be re-eligible a certain period, you give to the people the free exercise of their rights, while, at the same time, you guard and protect them against all from which they require to be protected—that is to say, the abuse of executive power—the war of executive influence for party purposes. But when he has descended to the ranks of the people, and has remained among them for a certain number of years, I repeat the expression of my belief, that no good reason can be assigned, why he should not be re-eligible, if the people of the state should again desire his services.

Mr. FLEMING said, it appeared to him that the propositions now introduced, and the arguments which had been made in their favor, were founded upon the presumption that the governor must be a rogue. They are founded, said Mr. F., on the supposition that we cannot find among us an honest man capable to discharge the duties of the executive office; but, that he being a rogue, and we knowing him to be so, we are bound to protect the people against his knavery by placing a provision in the constitution, requiring that he should be hurled from the executive chair after the lapse of one term, and that he should not be re-eligible to that office in the one case, for a given number of years, and in the other, for all time to come. This, it seems to me, is precisely the position in which the governor is placed by these proposed amendments.

Now, Mr. President, in the commonwealth of Pennsylvania, where the people have liberty to think for themselves, and where, as I believe, it is admitted on all hands, they are fully competent to do so—where they are competent to elect a man to the office of governor, or to any other station, because they know him to be a man who will discharge the duties of that station faithfully, I cannot see the necessity of placing such a restriction in the fundamental law of the land—a restriction on the legal rights of the people, for I can regard it in no other light. A restriction of this kind is just so much of the democracy of the land lost. And for what? Is there a *quid pro quo*? Did the people ask you for it? Did they come forward and tell you that they were incompetent to protect themselves, and that, therefore, they asked you to protect them, in order that they might not be guilty of the egregious folly of re-electing a man who had served them faithfully and satisfactorily, with honesty and integrity of purpose? Have the people done this? Have they asked you to protect them against a man from whom they can not protect themselves, because they have acted upon the principle that he was a rogue?

The gentleman from Susquehanna, (Mr. Read) would restrict a man to a single term of four years, to dignify the office;—he would restrict him by saying, you rogue, you shall only hold the office for four years, for we know, that you ought not to be trusted; we know that it would be an infringement on the rights of the people to adopt

such a resolution as this, yet we will adopt it, in order that we may add dignity to the office. Dignity to the office! From such dignity as this, may the Lord deliver me, at all events! I want no such dignity—I want no such honor—however much other gentlemen may covet it. I have not as yet, heard a single good reason assigned, why this amendment should be carried. Possibly, there may be such, but so far as I have yet heard, I repeat that not a single good reason has been assigned. Why is it, that any restriction is to be placed on the rights of the people, to select their own officers? The third section of the constitution of 1790 provides “that the governor shall hold his office during three years, and shall not be capable of holding it longer than *nine* in any term of *twelve* years.”

Has any evil ever resulted from this provision? Has not all experience shown that every successive administration has endeavored to exalt its character for learning, sagacity and watchfulness, by tracing out and exposing all the errors of its predecessors? And have not the errors of successive administrations been invariably exposed? It is in the nature of things, that a new administration will try to exalt its character, by exposing the faults and the errors of its predecessor. This degree of patriotic vigilance being constantly found to exist, I am not, by any means satisfied that it is necessary for the protection of the rights of the people, to limit the executive to a single term.

Moreover, if there is to be any limitation at all, I would be opposed to the term of four years and would make the limitation extend to three. Why make the term four years, if there is to be any limitation at all? If a man ought not to be trusted for more than a single term, why should we trust him for the long term of four years? If the argument is predicated, as I take it to be, on the ground that the governor would do an injury to the commonwealth, that he would be a political rogue, and would act in opposition to the best interests of the people, why, let me ask, should we have him in the executive chair for the long term of four years, in order that he might have an opportunity to do as much injury as possible. If this is the argument, for heaven's sake give him a shorter term. If this is the basis upon which the officers of the state are to be elected by the people, make their term of office as short as possible, so as to get rid of them, one after the other, as fast as possible.

I am well aware, Mr. President, that there is no hope that any thing I can say will have the effect to change a single vote on this question. But if this convention is disposed—if they have come to the determination to restrict this natural right in the citizens of our commonwealth, to select from among themselves, whom they pleased and as often as they please, to fill their offices, then I say, carry out the whole principle, and cut us down to two years. Yes, sir, to two years. Let your officers be constantly fresh from the people. If you design to put such a mark upon them, as this argument contemplates, limit their term of office to two years, or even to one year; and, let them at the end of that time, retire from office, it may be with the blessings of the people upon them for the faithful manner in which they have discharged their duties.

Mr. WOODWARD said, that he was in hopes that the amendment would be acceded to.

[Here Mr. FLEMING made a remark or two, which were wholly inaudible at the reporter's desk.]

Mr. WOODWARD replied that he had said he was desirous the amendment should be adopted, as it would secure the fidelity of the executive officer. It would relieve the governor from the necessity of directing the main measures of his administration to his own continuance in office. He did not mean to say that any governor had ever so prostituted his power, as to have used it to effect his re-election.

The veto power, the patronage power, in fact, all the various powers, with which the constitution clothes that officer, might be employed, more with a view to his re-election to the office of governor, for a second or third term, than for the substantial benefit and good of the people of the commonwealth of Pennsylvania. He (Mr. W.) was opposed to all these temptations; and, his belief was that the office would be more dignified, more elevated, more worthy to be filled by the best men in the state, if divested of all those circumstances and inducements, which might be taken advantage of, by a corrupt man to procure his re-election. If we made a man eligible to the office of governor, for one term, he would have no motive to influence his conduct, but that of the public good. He would not prostitute the veto power, the appointing power, nor any of the other powers which are given to him by the constitution. He would not then be tempted to exercise them with a view to effect his own re-election, as he might now do, and which the history of Pennsylvania, showed had been done. This, then, was the ground on which he based his amendment.

And, another reason, which weighed with some force on his mind, was, that a single term would place the individual above the debasing influences that were too nearly associated with the offices of governor. But, the gentleman from Lycoming, (Mr. Fleming) contended for electing the governor for three years, instead of four.

Now, he (Mr. W.) was in favor of four years, because he did not think that term too long to enable the executive, to carry into effect all his great measures of state policy. Every one came into office, on some great cardinal principles, and it was only fair and just, that a governor should be allowed sufficient time to carry out and develop all the principles of his party; and, four years, considering the growth and rise of Pennsylvania, was not too long. The term of four years was quite long enough, and not too short.

There was another reason, why he advocated a single term, and that was because he was in favor of the principle of rotation in office. He would ask the gentleman from Lycoming, if it was not a sound democratic principle?—if there was anything more republican in principle than that of rotation in office? Why, the delegate knew very well, that Mr. Jefferson advocated the principle, and maintained, that the abandonment of it, in reference to the chief magistrate, and making him re-eligible, was, virtually and in practice, making him president for life. He (Mr. W.) would read from Mr. Jefferson's correspondence, his opinion in regard to rotation in office, when speaking of the constitution of the United States. He said :

"The second feature I dislike, and what I strongly dislike, is the abandonment, in every instance, of the principle of rotation in office, and most particularly, in the case of the president. Reason and experience tell us, that the first magistrate, will always be re-elected, if he may be re-elected. He is, then, an officer for life."

Here, then, was the great principle, said, by Mr. Jefferson, to have been violated in the constitution of the United States. And, the principle was also violated, in the constitution of the commonwealth of Pennsylvania. All that he (Mr. W.) and others proposed, was to bring back our constitution to this sound principle of Pennsylvania democracy. And, he would tell the delegate from Lycoming, that he must assert, and maintain the principle. Now, he would ask, if the term of four years was too long? If not, was it impolitic to bring back the constitution, to the principle of rotation in office—to the period of one term of four years, for the governor, which would enable him to carry out the principles and policy of the party that brought him into office?

He was opposed to the amendment of the delegate from the county of Susquehanna, (Mr. Read) which proposed to render the governor ineligible, for ever, after having served one term. By the constitution of 1790, the governor was not capable of holding it longer than nine, in any term of twelve years. He (Mr. W.) believed, that the change advocated by the gentleman from Susquehanna would be a transition too sudden for the people of the commonwealth of Pennsylvania. He thought that they were not, at present, prepared for it; nor did he conceive it to be at all necessary to impose such a restriction on them, the people, for it was, in fact, a restriction on them, and not on the officer. After a governor shall have been in office four years, and it was the wish of the people to re-elect him, at some future period, in consideration of the principles by which he had been guided, and the virtue, ability and integrity which had marked his administration, he (Mr. W.) would have no objection to that.

While, under these circumstances, he (Mr. W.) would not object to the re-eligibility of a governor, yet he was unwilling that that officer should depend upon the executive patronage for all the motives brought to bear on him, and that he should administer the government upon any other than constitutional principles. He (Mr. W.) had now given the reasons, why he was opposed to making a governor re-eligible, and why he was in favor of limiting the term to four years, instead of three. He would conclude with saying, he was satisfied, that unless there was less speaking and more voting, this convention would be a long time before they were able to bring their labors to a close.

Mr. FORWARD, of Allegheny, wished to say a few words, in addition to what had been said by the delegate from Luzerne, (Mr. Woodward) in behalf of the amendment, now under consideration. The constitution of 1790, limited the re-eligibility of the governor to office, to three terms in twelve years. Why, he asked, was this restriction imposed? Let gentlemen reflect, for a moment, why it was introduced. Why not remove the restraint altogether, and let him be eligible, all his life? Why, did the framers of the constitution say, that a man should be eligible, for three terms, and no more? Probably, the reason which influenced him, (Mr. F.) in advoca-

ting the restriction, also influenced others, and that was, that a governor might use his office for corrupt purposes, and to aid in his own re-election.

Now, if that restriction was sufficiently justified in the constitution of 1790, it was equally so, in reference to the restriction that was now suggested. If a governor were to be re-eligible for two terms, was there not some inducement for him, if he were a corrupt man, to use his power and influence, to effect his re-election, if he desired to serve a second term? As there was a great deal of patronage and influence, connected with the executive office, it was of the highest importance, that the individual, who filled it, should be actuated by high and honorable motives, that the designs of the party should not be suffered to interfere, and, especially, that proper care should be taken, to prevent the governor from using his power and influence, so as to procure his re-election, at the expiration of his term. The proposition before this convention was, to extend the term of office of the governor, to four years, and to make him immediately re-eligible for the same period.

Now, four years was not an unreasonable term; for, in that period, the governor would be able, more fully, to justify his own course, character and pretensions, and to shew that the confidence reposed in him, had not been improperly bestowed. Was it to be supposed that there were a few men only in the state who possessed sufficient ability and talent, to fill the executive office? Certainly not. There were a great many men, capable of discharging the high and important duties of that honorable station; while, on the other hand, there were thousands who thought themselves equal to the office, who were wholly incompetent. If there were any reason at all for the restriction, it applied most forcibly to this particular provision of the constitution. If, he repeated, any restriction were necessary and proper, in regard to the eligibility of the governor, then, he conceived that four years was not too long a term, while three was too short. The tenure of the judicial offices had been changed since this subject was discussed in committee of the whole, the convention having decided that the governor shall appoint the judges for a term of years. It would be consequently, hereafter in the power of the governor to use his patronage, so as to insure his own re-election. He (Mr. F.) fully agreed with the remark of the gentleman from Luzerne, that we had better speak less and vote more.

Mr. MERRILL, of Union, entertained the opinion that the governor ought to be re-eligible, because then the people would sometimes have an opportunity of retaining the services of men who had discharged the duties of their office with credit and honor to themselves, and, at the same time, to the satisfaction and advantage of the commonwealth. But, if the governor was not to be re-eligible, he would be deprived, in some measures of a powerful incentive to fulfil the obligations imposed upon him with as much alacrity and faithfulness as he otherwise would have done. The executive magistrate was guided, generally, by public opinion; his friends supported him, and his enemies condemned him. If he were re-eligible, and had acquitted himself to the satisfaction of the people, their decision would strengthen him afterwards, and operate as a very strong inducement, if re-elected, to perform faithfully and impartially, his official labors.

He (Mr. M.) thought that nobody would deny that the public approbation was a powerful motive, in every man's mind, to discharge the duties which devolved upon him, in such a manner, as to retain it. He would appeal to the delegate from the county of Susquehanna himself, whether this was not the fact, and whether he, as a member of the legislature, had not been actuated by a like feeling in reference to his constituents? He would leave it to the judgment of that gentleman, then, to say, whether we ought to deprive men of this motive.

But, the gentleman contended that a governor ought not to have it in his power to test whether he has given satisfaction, or not. He fully concurred in the remark of the delegate that a governor should not have it in his power to perpetuate public opinion. He, (Mr. M.) however, did think that when a governor had acquired the good will of the people, he ought to have an opportunity of knowing it, and if they chose to elect him again, they might do so.

Mr. EARLE, of Philadelphia county, said it was a subject of great regret to him, while he agreed that our laws should be the echo of the will of the people, to witness the repeated attempts, that were made to take away the sovereignty of the people—to render the bill of rights nugatory—a farce—to make this government, what O'Connell called, a government of professions, and not fitted to carry out the principles we professed, viz :

“ All power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness : For the advancement of those ends, they have, at all times, an unalienable and indefeasible right to alter, reform, or abolish their government, in such manner as they may think proper.”

Now, what, he would ask, was the doctrine contended for? Why, it was an anti-democratic doctrine—that about one-third, a minority of the people, should have it in their power to put into office a governor of Pennsylvania, who, in conjunction with the legislature, might pass obnoxious laws, and under which the people would have to suffer for four years. He wished to learn from those delegates who had expressed their sentiments on this subject, how they could reconcile the principle which they had advanced here with that they had avowed elsewhere, that when a law was made in opposition to the will of the people, no matter how good it might be, it was right that it should be repealed. Repeal it—when? Four years hence. The argument now was, that we must wait four years. Four! why not wait forty years? Where was the limit? It seemed however, that we must live four years under a pernicious law, without being able to procure its repeal, as the veto power of the governor would prevent the legislature from accomplishing that object. He would ask the gentleman from Lancaster, (Mr. Reigart) whether he was opposed to one of the greatest principles of republicanism—viz : carrying into effect the popular will? For, the language of the gentleman's amendment was against it, although it probably did not convey his sentiments and meaning.

The amendment was certainly of a very anti-democratic character. It went so far as to say that the governor shall be elected by a minority of the people. not for three years, but for four! The argument in favor of

lengthening the term of the governor to four years, and against his re-eligibility was, that he ought not to be responsible to the people, and that he should not be re-eligible, but be elected for four years, instead of three, as he might be a rogue, and may use the power vested in him to promote his re-election. Now, if this was a good principle, why not make a governor for life? The argument urged in favor of four years, would apply equally as well to the tenure for life. And, he would give the man credit who would use it. He believed it essential to the permanency of all republican governments, that the people should have the exercise of the power. He thought the downfall of all governments, mainly attributable to the people not being in possession of that power which, of right, belongs to them.

Every check, then, such as was proposed, had a great tendency to deprive them of it. The purest governments in the world were in Switzerland, where the officers are elected annually. Which, he asked, was the best existing government in the United States? It was that of the state of Rhode Island, which was established in 1690. The most stable, easy and economical government on the face of the globe, perhaps, was that of Rhode Island, where the officers were elected annually, and the legislature every six months.

Look at the history of South America, and see what revolutions were constantly taking place in that country. And, what was the reason? Why, it was owing to the chief magistrate being elected for too long a term, and acting contrary to the will of the people. The people do not rebel against the government, when their officers are elected annually. Was it to be supposed that there would have been so many revolutions in Mexico, Peru, and other parts of South America, if the people had had more control over their rulers. He felt confident that the day would some time come, as it had come in other countries, when the people of Pennsylvania would not endure that a governor should hold his office for four years, acting all the time in opposition to the popular will. They would rise in arms to displace him. Take the case of the late war with England, when there were two parties in this country—one being in favor of the war, and the other opposed to it, and that a governor of Pennsylvania—who was also commander in chief—had been elected one year before hostilities began, and he, in heart, opposed to the war, would not the people compel him to resign? Most assuredly they would. In the year 1805, there were a great number of the democratic citizens of this state, in favor of reducing the term of the governor to one year. Undoubtedly, the best term that could be obtained.

Five of the states of this Union elected their governor for one year; eleven for two years, and nineteen for less than three years. He desired to know whether there was wisdom in those nineteen states, or not? He believed there was.

He thought that every innovation, such as was now proposed to be made, had been found to be productive of the most pernicious consequences. He had paid some attention to this matter, and he had no hesitation in saying, that wherever the governor is not re-eligible, the effects had been injurious. In the state of Virginia, particularly so.

In the commonwealth of Pennsylvania, where the sheriffs were elected for the term of three years, they were more disposed to misbehave them-

selves, than any other officers who were re-eligible to office. In New Jersey, where the sheriffs were re-elected, the people were better satisfied with them, than in those states in which the practice did not prevail. He could assert with regard to the people of the city and county of Philadelphia, that they were less satisfied with their new sheriffs, than those whom they re-elected.

But, it was said that men in office, who were re-eligible, were apt to be influenced by improper motives. Now, he would proceed to examine what foundation there was for the charge. He was free to admit, that a governor was liable to be swerved from the path of his duty, by improper motives.

But, what was the history of man? Why, that he looked, first, for power—then wealth, and next, for the friendship of the wealthy. If the governor were to be placed above the mass of the people, he would become aristocratic; he would not deign to visit the poor laboring man; nor does the poor man come to drink wine with him. His associations are of a character wholly opposed to the mass of the people. He mixes with the wealthy, and the learned, and is exposed to all sorts of temptation. There were but very few men in the world, at this day, who had the firmness and strength of mind of Mr. Jefferson, to resist the temptations to which they were perpetually exposed.

It had been said that some of our governors had entered into land speculations—that members of the legislature had voted for speculations, and that members of congress, from the power they possessed over the banks of the District of Columbia, had, on the strength of it, borrowed large sums of money of them. He would like to know whether the governor himself could not go to a bank—the charter of which, perhaps, he might have signed—and ask a loan from it, without any corrupt or bad motive whatever? Certainly he might. And, would the bank refuse him, because he happened to be the governor of the commonwealth? He imagined not.

If, too, the governor desired to enter into a speculation, has he not an equal right, with every other citizen, to do so, if he choose? Undoubtedly he had.

Power made a man aristocratic; let gentlemen, for instance, look at the life offices of Pennsylvania. Ask what are the political principles of the incumbents.

Would not, he inquired, the convention of 1790, have placed itself in a ridiculous position, by adopting such a proposition, as the one now under consideration? To extend the term of the governor to four years, would be deemed by the people, an improper act.

The convention had voted down all the motions that had been made to render members of the legislature, and the county officers, ineligible. He thought it might be as well to reduce the term of the senators, to two years. There was a strong disposition in man, to acquire power; and not only did we see men striving for the mastery, but even children, and the brute animals also. There were men who wished to govern the world. Some governors had all the feelings of a monarch; who liked to say "such is my will; I will carry out my policy, &c.

For these reasons, he (Mr. E.) wished to support democratic princi-

ples. He was more in favor of shortening terms, than lengthening them. He trusted that they would not be extended, and that the governor would be made re-eligible for one term.

He (Mr. Earle) could only say, that experience was the best teacher; and he would venture to say, that there was no delegate in this convention, who had taken the trouble to examine, as he had done, the practice adopted in the several states, in reference to the periods for which their respective governors were elected, who would assert that any evils had arisen from electing the governor annually.

But, evils, no doubt, had arisen, both in the national and state governments, by men having been kept too long in office, contrary to the will of the people.

Mr. SMYTH, of Centre, said he would take the liberty of differing from those gentlemen who advocated the amendment. He preferred the report of the committee; and he would give his reasons why he did so, in a few words.

He did not think the report of the committee anti-democratic, nor did he, for a moment, believe they would have reported the amendment they had done, if they had conceived it to be deserving of such a name. He had always supposed, that the more frequently an officer was returned to the people, the better. This, in his opinion, was in accordance with republican principles.

The amendment under consideration, extended the governor's term of office to four years, after which period he was to be ineligible. He preferred, however, that it should be reduced to two years, and that the officer should be re-eligible. The reason why he preferred two years, to three or four, was, because that term would bring the governor more frequently before the people, and give them an opportunity of passing upon his conduct, and re-electing him, if found deserving of their confidence.

It had been remarked by the gentleman from Luzerne, (Mr. Woodward) that the people disapproved of re-eligibility to office. Now, he (Mr. S.) apprehended the reason was, that the office of president had no termination—that he might be re-elected as often as the people thought proper; and Mr. Jefferson thought that the re-eligibility should cease at a certain time.

He was of the opinion, that the gentleman from Allegheny, (Mr. Forward) misunderstood the matter.

Under the provision of the constitution of 1790, the governor is made capable of holding his office for not more "than nine in any term of twelve years." The amendment now under consideration, proposes to shorten the term of service.

But, there is another reason why I am opposed to the amendment. The state of Pennsylvania has been engaged, for a series of years, in an extensive system of internal improvements. Suppose a governor to be elected for a term of three or four years, who is a warm advocate of public improvements. He has a certain scale in his eye, which he is desirous to see carried out, and he may have a majority with him in favor of it; yet the provision which it is proposed by the gentleman from Lancaster now to insert in the constitution, prevents his re-election, and might thus be the means of preventing that system from being carried out.

For these reasons, as well as others which have suggested themselves to my mind, and with which I shall not now detain the convention, I am in favor of the report of the committee, as it was agreed to in committee of the whole. I take the liberty to judge for myself, and the result of the best reflection which I have been able to give to the subject, is, that the report of the committee, as agreed to in the committee of the whole, is the best amendment which we can get.

I do not like to act upon the supposition, that every man who may chance to be opposed to me in opinion or in politics, is corrupt and unworthy to be trusted. This is a dangerous principle to act upon, to say nothing of its obvious impolicy and injustice.

I repeat my belief, that the very best thing we can do, is to adopt the report of the committee, as agreed to in committee of the whole.

Mr. CHANDLER, of Philadelphia, said: It is my intention, Mr. President, to vote against the amendment of the gentleman from Lancaster, (Mr. Reigart) and I will explain, in a few words, the reasons which will govern my course. I am desirous to remove the effect which the remarks of the gentleman from the county of Philadelphia, (Mr. Earle) are calculated to have on the minds of the members of this body.

We have already diminished the patronage of the governor, by the amendment adopted in committee of the whole, and agreed to in convention. It is certain, therefore, that the governor is less liable to a breach of trust upon that account, and I think that we might safely trust him in the office for a longer term than the gentleman from Lancaster proposes.

The gentleman from the county of Philadelphia, (Mr. Earle) has referred to the state of Rhode Island. He may have in his horizon, the whole of the Providence Plantations, and the little island, in the Narraganset, which compose the state of Rhode Island. The same rule, I apprehend, would not apply to the state of Pennsylvania—a commonwealth, having such large and extensive interests—covering such a vast area of territory, and keeping in constant requisition the sagacity and energies of her executive; and, withal, where every man has a right to test the sense of the people upon his plans.

We are threatened with insurrection, at some time, if the election is made for four years. I do not say we shall not have one.

Some years since, when senators of the United States were elected for six years, we were threatened with something of that kind; it was declared that they should not sit longer than the members of the lower house. So that there may probably be some ground for this threat. It is possible that the gentleman from the county of Philadelphia may be in possession of some facts, with which the members of this body, generally, are not acquainted, but I think we may safely trust to the good sense of the community.

Reference has been made to the case of a governor, who might have conscientious scruples against wars, and who might decline to carry the necessary measures into effect; and the gentleman has said something about conscience having made "cowards of us all." I believe that the governors we elect now lie under no implication of this kind. They have to appoint officers, erect arsenals, and carry into execution, all pro-

per measures for the protection of the commonwealth, and no one doubts their desire to do so.

If a governor should become peculiarly conscientious, in a time of approaching danger, and should not take the necessary measures for the defence of the state, it is in the power of the people to instruct their senators or representatives to carry out any measure for the defence of the commonwealth, even if the governor, as commander-in-chief of the army of the commonwealth, should refuse to carry it out. The people would, therefore, have the charge in their own hands.

It has been said, that a governor would, as he might have endeavored to do, fortify himself in office, by associating himself with the rich and the learned. I will not undertake to defend any governor from such a charge. If a governor has selected his associates from those who have acquired wealth, by means of their labor and their industry, as almost all our citizens, who have any wealth at all, have acquired it, I will not say what should be his punishment. I will leave this to loco focoisim itself, because they must enact a law for the punishment, when they create the crime.

Nor shall I say what ought to be the punishment of our governors, if they should seek to associate themselves with the learned men of the land—men who know the history of the world—men who know, not only the history of their own country, but of other countries—monarchies or republics—or whatever other kind of government may exist there. I should not censure them; but on the contrary, I should think that it was a cheering and a goodly thing for the people of this commonwealth, to know that their chief magistrates were selecting their counsellors from among men learned in all the science, that appertains to human government.

In reference to the extension of time and reducing the number of terms during which a governor may be elected, I can see no good to result from such a provision.

Since the time of Simon Snyder, I believe that no governor has been elected more than once, and two terms have been the extent of the service of a chief magistrate in this state. This has been the case, without the operation of any prohibitory clause in the constitution; and I think, therefore, that the matter should be left in the hands of the people.

The time may come, when the people may be desirous to carry out some particular measure, and which would be carried out under the auspices of the governor for the time being, if he was elected for another term, when a new man, if elected in his place, might want the experience; or, probably, the nerve to accomplish the object.

Give, therefore, to the people the right to elect their governor for three terms, if they choose so to do; and after three terms, let it be that he shall rest from his labors, and that his works shall follow him. By them he will be judged.

Who can say that there is not danger to be apprehended from confining the governor to a single term? Who shall say that he may not, upon the consideration that he is appointed for one term only, in the case of a bank charter, for instance, be bribed, by the reflection of his own circumstances, and those of his family, to do a manifest wrong to the whole of

the commonwealth, and in order to build up some sectional measure for his own benefit, and the benefit of those immediately about him?

For my own part, I see in this prohibition, a stronger motive to do wrong, than I can discover in all the other circumstances attending the gubernatorial office. I would have the governor submit his works to the approval of the people, and if, at the expiration of the term of three years, his works are shown to have been such, as to elicit from the people, the approving words, "well done, good and faithful servant," let him not be thrown out of office, to give way to one without his experience, and without the approval of the people.

Mr. SMYTH, of Centre, asked for the yeas and nays on the question, and the call being seconded, the yeas and nays were ordered.

Mr. EARLE said, it was a maxim of Franklin, that where annual election ends, tyranny begins. This, said Mr. E., may be safely laid down as a general republican principle.

I rise to notice the observations which have been made, in relation to the short term of office prevailing only where the states are small. There is one state which is larger than the average of the states of this Union. I allude to the state of Massachusetts. There the term of the governor is annual—and that of the state senators is annual.

But, the size of the state has nothing to do with this question of duration of terms; or, if it has, it must be in favor of the smallest term in the largest states. There is one argument which is very strong in favor of making the term of the governor and the senators shorter in a large state than in a small one. It is this. It has been said, and said truly, that the people are sometimes liable to be carried away by a sudden impulse, to do that which is wrong—as we have seen in some parts of our country. We have seen them rob and murder, suddenly and without trial. But, how did these sudden impulses operate? They always operate in a small territory. There is, therefore, some reason for making the term somewhat permanent; but, in larger states, these impulses do not extend—it is almost impossible they should extend over the length of the territory.

In the remarks which I made, when I addressed the convention before, in regard to rich and learned men, I did not intend to speak with any disrespect of them. I have myself endeavored to acquire learning, although I have not been very strict in the search after riches. I speak merely of human nature as it exists; and knowing, as we do, that nine men out of ten are operated upon by their own condition in life, and that they would wish to have such laws passed as will be most favorable to their own interests.

And, sir, men do this honestly, and without any intention to do that which is wrong. Go and ask a slave holder what is the best law, and he will tell you a slave law—because it protects his interests. Ask a slave what is the best law, and he will tell you a law of emancipation. The feelings of both these parties are influenced and governed by their own interests.

I do not wish either that the rich or the poor class should have exclusive control of the affairs of our government; I wish that each should

have its fair and proportionate weight. And my objection to the term of four years, and to the re-eligibility of the incumbent is, that power produces an aristocratic principle in the breast of him who possesses it—and that his associations become identified with those who are above the mass of the people; he naturally becomes influenced by them; and that influence is such that, if not counteracted by the action of the people, would swerve him from the right path,—and would induce him to attend more to the interests of the few, and less to the interests of the many. The legislatures are elected by universal suffrage; but they never act equally, and why? Because, when they meet in their legislative halls, they are subject to influences of this kind. It is the rich with whom they are brought in contact, and not the poor. Here it is found necessary to secure as much responsibility as possible by short terms of office. I should not care how short the term of office may be, if it were only three months, provided it could be made so, without inconvenience to the people.

Gentlemen propose rules here which they would not themselves be willing to act upon, if applied to the affairs of private life. Who would employ a tailor, or a watch-maker for the term of four years? Who would make a contract with either of them, that they should do this or that particular thing for me, for so many years, whether I liked their workmanship or not—and that at the end of that time, I should debar myself from employing either of them any more. It would be the act of a madman, and if you would not act in this way in private life, would you in public life?

Mr. M'CAHEN, of Philadelphia, asked for a division of the question.

The CHAIR decided that the question was not divisible.

And the question on the amendment of Mr. REIGART, was then taken;
And on the question,

Will the convention agree so to amend the said section?

The yeas and nays were required by Mr. REIGART and Mr. READ, and are as follow, viz:

YEAS—Messrs. Agnew, Ayres, Barclay, Barndollar, Bedford, Bonham, Brown, of Lancaster, Brown, of Philadelphia, Chambers, Chandler of Chester, Clapp, Clarke, of Beaver, Cleavinger, Cline, Coehran, Craig, Crum, Dillinger, Dunlop, Farrelly, Forward, Fry, Hiester, Mann, Martin, M'Cahen, M'Dowell, Merrill, Merkel, Montgomery, Nevin, Pollock, Purviance, Reigart, Seltzer, Stickel, Sturdevant, Taggart, Weaver, White, Woodward—41.

NAYS—Messrs. Baldwin, Banks, Biddle, Bigelow, Brown, of Northampton, Carey, Chandler, of Philadelphia, Clark, of Dauphin, Clarke, of Indiana, Coates, Cox, Crain, Crawford, Cummin, Curll, Darrah, Denny, Dickey, Dickerson, Donagan, Donnell, Doran, Earle, Fleming, Foulkrod, Fuller, Gamble, Gearhart, Gilmore, Grenell, Marits, Hastings, Hayhurst, Hays, Helfenstein, Henderson, of Allegheny, Henderson, of Dauphin, High, Hopkinson, Hout, Hyde, Ingersoll, Keim, Kennedy, Kerr, Konigmacher, Krebs, Lyons, Maclay, Magee, M'Sherry, Meredith, Miller, Overfield, Payne, Pennypacker, Read, Riter, Ritter, Rogers, Royer, Russell, Saeger, Schetz, Scott, Sellers, Shellito, Sill, Smith, of Columbia, Smyth, of Centre, Snively, Sterigere, Thomas, Todd, Weidman, Young, Sergeant, *President*—77.

So the amendment was rejected.

A motion was made by Mr. STURDEVANT,

To amend the said section as amended, by striking therefrom the word "six," in the third line, and inserting in lieu thereof, the word "three;" and by striking therefrom, the word "nine" in the last line, and inserting in lieu thereof, the word "six."

And on the question,

Will the convention agree so to amend the section?

The yeas and nays were required by Mr. STURDEVANT and Mr. M'CAHEN, and are as follow, viz:

YEAS—Messrs. Ayres, Banks, Bedford, Bonham, Brown, of Philadelphia, Cleavinger, Cline, Cochran, Craig, Crain, Cummin, Curll, Darrah, Dillinger, Doran, Dunlop, Forward, Fry, Gilmore, Keim, Mann, Martin, M'Cahen, Parviance, Read, Ritter, Rogers, Sellers, Seltzer, Stickel, Sturdevant, Weaver, White, Woodward—34.

NAYS—Messrs. Agnew, Baldwin, Barclay, Barndollar, Biddle, Bigelow, Brown, of Lancaster, Brown, of Northampton, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Clapp, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Coates, Cope, Cox, Crawford, Crum, Denny, Dickey, Dickerson, Donagan, Donnell, Earle, Farrelly, Fleming, Foulkrod, Fuller, Gamble, Gearhart, Grenell, Harris, Hastings, Hayhurst, Hays, Helffenstein, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, High, Hopkinson, Hout, Hyde, Ingersoll, Kennedy, Kerr, Konigsmacher, Krebs, Lyons, Maclay, Magee, M'Dowell, M'Sherry, Meredith, Merrill, Merkel, Miller, Montgomery, Nevin, Overfield, Payne, Pennypacker, Pollock, Reigart, Riter, Royer, Russell, Saeger, Scheetz, Scott, Shellito, Sill, Smith, of Columbia, Smyth, of Centre, Snively, Sterigere, Taggart, Thomas, Todd, Weidman, Young, Sergeant, *President*—85.

So the question was determined in the negative.

A motion was made by Mr. PAYNE,

To amend the said section by striking therefrom the word "three," in the first line, and inserting in lieu thereof, the word "two;" and also, by striking therefrom, the word "nine," in the last line, and inserting in lieu thereof, the word "eight."

And the said amendment being under consideration,

A motion was made by Mr. REIGART,

That the convention do now adjourn.

Which was agreed to.

Adjourned until half past three o'clock this afternoon.

MONDAY AFTERNOON, JANUARY 15, 1838.

SECOND ARTICLE.

The convention resumed the second reading of the report of the committee, to whom was referred the second article of the constitution, as reported by the committee of the whole.

The third section of said article being under consideration, as follows, viz:

"SECT. 3. The governor shall hold his office during three years, from the third Tuesday of January next ensuing his election, and shall not be capable of holding it longer than six in any term of nine years."

And the question being on the motion of Mr. PAYNE, of M'Kean, to amend the said section by striking therefrom the word "three" in the first line, and inserting in lieu thereof, the word "two," and also by striking therefrom the word "nine" in the last line, and inserting in lieu thereof, the word "eight."

The yeas and nays were required by Mr. PAYNE and Mr. DARRAH, and were as follows, viz:

YEAS—Messrs. Banks, Brown, of Philadelphia, Cochran, Crain, Cummin, Darrah, Earle, Grenell, Hastings, M'Cahen, Payne, Read, Ritter, Smith, of Columbia—14.

NAYS—Messrs. Agnew, Baldwin, Barclay, Biddle, Bigelow, Bonham, Brown, of Lancaster, Brown, of Northampton, Chambers, Chandler, of Philadelphia, Clapp, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Cline, Cope, Crawford, Curll, Denny, Dickey, Dickerson, Dillinger, Donagan, Donnell, Dunlop, Farrelly, Fleming, Foulkrod, Fuller, Gearhart, Gilmore, Harris, Hayhurst, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, High, Hopkinson, Hout, Ingersoll, Jenkins, Kennedy, Kerr, Konigsmacher, Krebs, Lyons, Maclay, Magee, Mann, Martin, M'Dowell, M'Sherry, Meredith, Montgomery, Nevin, Overfield, Pennypacker, Pollock, Purviance, Reigart, Riter, Royer, Russell, Saeger, Scheetz, Sellers, Seltzer, Serrill, Shelito, Sill, Smyth, of Centre, Stickel, Sturdevant, Taggart, Thomas, Todd, White, Young, Sergeant, *President*—80.

So the question was determined in the negative.

A motion was made by Mr. READ, of Susquehanna, to amend the said section by striking therefrom the word "three," where it occurs in the first line, and inserting in lieu thereof the word "four;" and by striking therefrom all after the word "election," in the second line, and inserting in lieu thereof the words as follows, viz: "but shall not be re-eligible."

Mr. READ explained, that the effect of his amendment, if adopted, would be, after the first term, to render the governor ineligible.

The reasons for this were, first, to take away from the governor every motive of action but the public good; and secondly, to prevent party feeling from throwing any obstructions in the way of his measures. On these two reasons, he would rest his amendment, merely asking for the question to be taken by yeas and nays.

The yeas and nays were then ordered, and the question was taken on the amendment, and was decided in the negative, as follows, viz :

YEAS—Messrs. Barclay, Brown, of Philadelphia, Cline, Cochran, Cummin, Dillinger, Doran, Dunlop, Fry, Grenell, Martin, M'Cahen, Nevin, Purviance, Reigart, Read, Riter, Sturdevant—18.

NAYS—Messrs. Agnew, Baldwin, Banks, Barndollar, Bedford, Biddle, Bigelow, Bonham, Brown, of Lancaster, Brown, of Northampton, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Clapp, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Coates, Cope, Cox, Craig, Crain, Crawford, Crum, Curll, Darrah, Denny, Dickey, Dickerson, Donagan, Donnell, Earle, Farrelly, Fleming, Foulkrod, Fuller, Gamble, Gearhart, Gilmore, Harris, Hastings, Hayhurst, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, High, Hopkinson, Hout, Hyde, Ingersoll, Jenks, Kennedy, Kerr, Konigsmacher, Krebs, Lyons, Maclay, Magee, Mann, McDowell, McSherry, Meredith, Merrill, Merkel, Miller, Montgomery, Overfield, Payne, Pennypacker, Pollock, Ritter, Royer, Russell, Saeger, Scheetz, Sellers, Seltzer, Serrill, Shellito, Sill, Smith, of Columbia, Smyth, of Centre, Sterigere, Stickel, Taggart, Thomas, Todd, White, Woodward, Young, Sergeant, *President*—92.

The question then recurred on the amendment, as reported by the committee of the whole to section three.

Mr. CUMMIN called for the yeas and nays on this question, which were ordered and were, yeas 105, nays 9, as follows :

YEAS—Messrs. Agnew, Barclay, Barndollar, Bedford, Bigelow, Bonham, Brown, of Lancaster, Brown, of Northampton, Brown, of Philadelphia, Carey, Chambers, Chandler, of Chester, Clapp, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Cline, Coates, Cochran, Cox, Craig, Crain, Crawford, Crum, Cummin, Curll, Darrah, Denny, Dickey, Dickerson, Dillinger, Donagan, Donnell, Doran, Dunlop, Earle, Farrelly, Fleming, Forward, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Harris, Hastings, Hayhurst, Hays, Helfenstein, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, High, Hout, Hyde, Ingersoll, Keim, Kennedy, Kerr, Konigsmacher, Krebs, Lyons, Maclay, Magee, Mann, Martin, M'Cahen, McDowell, Merrill, Merkel, Miller, Montgomery, Nevin, Overfield, Payne, Pollock, Purviance, Reigart, Read, Riter, Ritter, Royer, Russell, Saeger, Scheetz, Sellers, Seltzer, Serrill, Shellito, Sill, Smith, of Columbia, Smyth, of Centre, Snively, Stickel, Sturdevant, Taggart, Thomas, Todd, Weaver, White, Woodward, Young, —105.

NAYS—Messrs. Baldwin, Biddle, Chandler, of Philadelphia, Cope, Hopkinson, McSherry, Meredith, Pennypacker, Sergeant, *President*—9.

So the amendment reported by the committee was agreed to.

The section, as amended, was then agreed to without a division.

The fourth section was then read as follows :

“**SECT. 4.** He shall be at least thirty years of age, and have been a citizen and inhabitant of this state seven years next before his election ; unless he shall have been absent on the public business of the United States, or of this state.”

Mr. STURDEVANT moved to strike from the first line the word “thirty,” and insert in lieu thereof the word “twenty-five.”

Mr. S. said, he had examined this question with care, and he could not see why it was that it should be declared by the constitution, that no man could be elected to the office of governor, until he had attained the age of thirty years.

It also seemed to him, that a reference to the fourteenth section of this article, would show that there was some inconsistency in the article as it

now stood. It will be discovered by a reference to that section, that on the death of the governor, the speaker of the senate is to exercise the office of governor. Well, of what age may the speaker of the senate be? Why senators may be elected when they arrive at the age of twenty-five, and a speaker of the senate may only be twenty-five years of age. Thus, then, a man being qualified to hold the office of senator at twenty-five, was qualified also to be governor at twenty-five. Then, would it be pretended that there was not inconsistency in these two sections? Certainly, if a man in the one case was competent to hold the office of governor, at the age of twenty-five, he ought to be in another.

He was aware, that there was a prejudice existing in the public mind, against young men exercising offices of high trust, but he thought it to be an ill-founded prejudice. There were in this convention, he believed, about twenty-three, who calculated on being the next governor of Pennsylvania, and there are also some five or six, who have not arrived at that age which the constitution prescribes, consequently they will be excluded from all hope of having their pretensions brought to the notice of the people, if this amendment is not adopted. He himself was under the age of thirty, and unless this amendment was agreed to, he must agree to resign his claims to this high office, and yield it up to those who have seen a few more winters.

He was aware, that he need not expect the votes of those twenty-three who are in expectation of filling that office, for the next three years, because by so doing, they would bring six more competitors into the field, on an equal footing with themselves, but he hoped to be able to get the votes of some of those who were not looking so anxiously to this office, and he was anxious to have an opportunity of recording his name upon this.

He was desirous of saying in this amendment, that the people, in cases like this, are the best judges of the persons most fit for governor, and he was desirous of throwing open that office, as well as every other office, to every one who had attained to a proper age.

He believed the young men of this state, of the age of twenty-five, to be equally honest, and equally intelligent with those of greater age. It was, however, he was sorry to admit, not customary in Pennsylvania to call upon a man of eminent talents to fill the office of governor of the state. It was customary in this state, to call upon some aged person to fill this office, not because of his great learning or ability, but in consequence of his popularity.

The custom is, and has been, to fix on some old politician who is supposed to be popular, and generally a German, and such a man may stand a good chance of being elected; but nominate a man of talents for governor, and he would venture to say, that he could not be elected.

Now, his object was to throw this office open to every man who was old enough to be a senator and representative. He was disposed to throw it open to general competition, and bring it within the reach of the young as well as the old; because we have had various instances of men being very distinguished men before they were thirty years of age. He believed that the present governor of Michigan, Governor Mason, was under the age of thirty, and certainly he was very distinguished in his own state.

We have had many distinguished in our own state, before they arrived at that age, below which, by the constitution, it was impossible that they could be raised to this high office.

But while the present system is pursued, it will be impossible ever to elect any person of this description to the office of governor in Pennsylvania. In this state, the practice has been to nominate your candidates for governor, by caucus, where some man is fixed upon who will meet the approbation of the party.

Your governors, therefore, have been men of the party and not men of talents—they have not been men of experience, but men have been fixed upon who had no experience whatever—men totally destitute of experience—men who have been jogging along through life smoothly and who were supposed to be popular. They have generally been mere popular politicians, and in order to secure the German population, a German has almost invariably been elected. These are the kind of men who have been selected for a long series of years, but you cannot elect a yankee or any person who is not of German descent—you cannot elect a person from the county or city of Philadelphia. It is utterly impossible. A distinguished gentleman from the county of Philadelphia, had been spoken of as a suitable person to be elected to fill this station, but it would be impossible for that gentleman to be elected, unless he might obtain popularity with a certain class, by applying to the legislature and getting a good German name.

He did not make these remarks, with a view of creating any bad feelings on the part of any one, but he merely stated the facts as they existed, which every one must be as well informed on as himself. If this amendment which he had proposed, was adopted, the people would act as they had heretofore acted—perhaps with not so much discretion in some cases, but they might be disposed to fix upon some young man under the age of thirty; and in such case, he was anxious that the people should be permitted to exercise their own judgment, and not to be bound up by constitutional fetters. He desired the people to have the liberty of making a free selection, and he was opposed to any provision by which the young men of our state would be excluded from this office. In this matter he considered that the people ought to be free to exercise their own choice.

There was no reason why a governor should be any more advanced in years, than a senator or representative; yet, by this same constitution, we see that representatives may be elected at the age of twenty-five year. It appeared to him, that this office ought to be thrown open to all persons over the age of twenty-five years, and with this view he had made the motion which was now before the convention. If by the fourteenth section a man might come into and exercise the office of governor, by an indirect mode, when he was only twenty-five years of age, he could see no reason why a governor might not be voted for directly at this age. He could not say that he entertained very great hopes of carrying this motion, but with a view of seeing who would and who would not vote for it, he now called for the yeas and nays—which were ordered.

Mr. CHANDLER, of Philadelphia, looked upon this motion, as on a par with the one made some time ago, to reduce the age of the representative,

from twenty-five to twenty-one years. With regard to the chance of the gentleman from Luzerne, to be the next governor of this state, he thought it was very poor, even by his own showing, and if he recollected how much more expert and cunning the older politicians than himself were, he would consider his chance still more poor.

He thought, however, that the gentleman ought not now to be so solicitous about this matter, because a few years would qualify him as to age, for the office of governor, and by that time he might be better able to compete with other claimants. By the time the gentleman had lived in this state as long as he (Mr. C.) had, he thought his opinions would change in relation to the age at which a man ought to be called upon to exercise the office of governor. We have already refused to have a lieutenant governor, and have thought it improper to have an executive counsel.

He took it therefore, that it would be entirely improper to entrust the affairs of this great commonwealth in the hands of a man of twenty-five years of age, who may have been shut up in a college or a lawyer's office nearly all the days of his life.

He would not make an additional remark on this subject, except to express his surprise that the gentleman from Juniata, (Mr. Cummin) had not on this occasion quoted from that good book, in which he was so conversant, the exclamation: "woe unto that people whose king is a child."

He hoped the gentleman from Luzerne would withdraw his amendment.

Mr. M'CAHEN, of Philadelphia county—

I am opposed to proscription, in whatever shape it may appear, and I think that this attempt to keep back young men, and to deprive them of the right and opportunity of being elected to these offices, if the people choose to elect them, is in every case proscriptive. I am, therefore, in favor of the proposition of the gentleman from Luzerne, and shall vote for its adoption.

And the question on the amendment of Mr. STURDEVANT, was then taken ;

And on the question,

Will the convention agree so to amend ?

The yeas and nays were required by Mr. STURDEVANT, and Mr. M'CAHEN, and are as follows, viz :

YEAS—Messrs. M'Cahen, Sturdevant, Taggart—3.

NAYS—Messrs. Agnew, Baldwin, Banks, Bardollar, Bedford, Biddle, Bigelow, Bonham, Brown, of Lancaster, Brown, of Northampton, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Cline, Coates, Cochran, Cope, Cox, Craig, Crain, Crawford, Crum, Cummin, Curll, Darrah, Denny, Dickey, Dickerson, Dillinger, Donagan, Donnell, Doran, Dunlop, Earle, Farrelly, Fleming, Forward, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Harris, Hastings, Hayhurst, Helffenstein, Henderson, of Allegheny, Hendetson, of Dauphin, Hiester, High, Hopkinson, Hought, Hyde, Ingersoll, Jenks, Kennedy, Kerr, Konigmacher, Krebs, Lyons, Maclay, Mann, Martin, M'Sherry, Merrill, Merkel, Miller, Montgomery, Nevin, Overfield, Payne, Pennypacker, Pollock, Purviance, Regiart, Read, Riter, Ritter, Royer, Russell, Saeger, Scheetz, Scott, Sellers,

Seltzer, Serrill, Shellito, Sill, Smith, of Columbia, Snively, Stickel, Thomas, Todd, Weaver, White, Woodward, Sergeant, *President*—103.

So the amendment was rejected.

The fifth section of the said report in the words following, viz :

“SECTION 5. No member of congress or person holding any office under the United States, or this state, shall exercise the office of governor ;”

Was considered, and no amendment having been offered thereto, the same was agreed to.

The sixth section of the said report in the words following, viz :

“SECTION 6. The governor shall at stated times receive for his services a compensation, which shall be neither increased nor diminished during the period for which he shall have been elected ;”

Was considered, and, no amendment having been offered thereto, the same was agreed to.

The seventh section of the said report in the words following, viz :

SECTION 7. He shall be commander in chief of the army and navy of this commonwealth, and of the militia, except when they shall be called into the actual service of the United States ;”

Was considered, and, no amendment having been offered thereto, the same was agreed to.

The eighth section of the said report, amended by the committee of the whole, being under consideration, as follows, viz :

SECTION 8. He shall appoint a secretary of the commonwealth during pleasure, and he shall nominate, and by and with the advice and consent of the senate, appoint all judicial officers of courts of record, unless otherwise provided for in this constitution : *Provided*, That in acting on executive nominations, the senate shall sit with open doors, and in confirming or rejecting the nominations of the governor, the vote shall be taken by yeas and nays.”

A motion was made by Mr. DUNLOP,

To amend the said section, by striking therefrom the words following, viz :

“ *Provided*, That in acting on executive nominations, the senate shall sit with open doors, and” —

Mr. D. said he had only a few words to say on this subject; but if, said he, we were about to submit a revision of the governor's appointments to the senate, I think it would be improper for that body to sit with open doors. In passing upon the nominations, it would be expected that the members of the senate should state freely their opinions of the private character of the persons nominated, and you at once deprive the public of all advantage to be derived from disclosures as to the characters of these individuals, if you adopt a provision urging the senate to sit with open doors. There will be nothing said and nothing done in relation to them, if this provision is to be carried out. It is odious enough to speak of a man with disrespect when we are under the necessity of doing so ; and if the senators are not allowed to commune together as a body of brothers, with the knowledge that their opinions are not to be made known, you cannot

expect them to express their opinions. It will be in vain to look for it, and I hope, therefore, that the convention will consent to strike out this clause.

Mr. **HIESTER** demanded the yeas and nays on agreeing to the amendment.

Mr. **MACLAY**, of Mifflin, said that he concurred in the views which had been expressed by the gentleman from Franklin, (Mr. Dunlop) so far as to think that it would be improper to insert a provision requiring the senate to sit with open doors when acting on executive nominations. But, said Mr. M., I do not concur with that gentleman in the opinion that such a provision would have the effect to silence the tongues of the members of the senate, or to keep them from saying any thing about the qualifications or the characters of the persons nominated. I think, on the contrary, that the senate chamber would be a scene of traducement. I could name men, who, if they should happen to be nominated for office, and this provision should be in operation, would be blackened with every species of abuse. I am of opinion, therefore, not only that this provision could answer no good object, and that, so far as any beneficial result is concerned, it will be entirely useless, but I believe that, if adopted, it will be the means, on the other hand, of creating much trouble and mischief. The senate ought not to be required to pass on these nominations with open doors. I take this occasion to say that I regard the whole section as useless. If the senate are to sit with closed doors, there will be a constant struggle to have them open. Patriotic speeches would be made to let the people come in, and, probably, without any serious desire that they should be admitted.

I am opposed, for the reason stated, to that clause which requires the senate to sit with open doors, and I hope it will be stricken out. And I am likewise opposed to the whole section.

Mr. **MERRILL** said, that any sensitive man would hesitate about going before the senate as a candidate for office, when it might be the object of some party or other, to detract from his merits or to blacken his reputation. If the advice of the senate was not to be true advice, it would be worse than nothing. If, said Mr. M., we ask the senate to tell us the truth—to act in these matters with entire and perfect independence, we must take away from the members of that body all fear of responsibility, personal or otherwise, as to the persons in reference to whom they are required to give their advice. One great evil arising from the adoption of a provision requiring the senate to sit with open doors would be, that all sorts of abuse would be heaped upon some men, whilst others, who might be known to be rather stern of character, and apt to call men to account for personal allusions or abuse, might be passed over in silence, although perhaps they might be as much, or more justly open to censure than those on whom it might be cast. Is it desirable, under all the circumstances to throw open the doors of the senate chamber? I believe that it is not. I believe that the tendency of such a provision would not be to secure good officers to the commonwealth, but that it would have the effect to bring forward, as candidates for office, men who might care little or nothing as to what the senate might say of them. For these reasons, I am in favor of the motion of the gentleman from Franklin, (Mr. Dunlop) and I hope that this portion of the section may be stricken out.

Mr. **BROWN**, of Philadelphia, said that he was in favor of the proposi-

tion contained in this section, requiring the senate to sit with open doors on executive nominations, and that, from all the consideration which he had given to it up to this time, he intended to vote for it. I do not know (said Mr. B.) from what member of the committee this proposition came. I, however, have seen it in operation in the legislature of the state of Virginia, where the reasons are stated by those who nominated a candidate for office, why he should, or should not receive the appointment. So far as my experience goes, no evil has ever arisen from this cause. On the contrary, I think that its tendency is decidedly beneficial. I think that every man in the state of Pennsylvania who comes forward as a candidate for office, should come with a character which will bear the strictest scrutiny. Let it be known that such a scrutiny is to take place, and the consequence will be that this alone will secure proper nominations. There can then be no intrigues—there will be no means by which any thing of an improper nature can be glossed over.

Let the name of every senator be recorded according as he has voted, and no man will be able, under such a provision, to avoid the responsibility attaching to improper appointments, by saying that he knew nothing of such and such objectionable matters which might be laid to the charge of the candidate. Then his name will be recorded, and his constituents will know that he placed his name upon the record, with a full knowledge of all the facts and circumstances attending the appointment. I am not, and I never have been, in favor of secret tribunals, where we are able to have open and public tribunals. It is right that senators should know whom they are appointing to office, and it is right also that the people should know. I trust we will give them the opportunity.

Mr. DUNLOP said, that when he proposed his amendment, he did not anticipate a long discussion upon it, and that, as there appeared now to be every chance of a protracted debate, he would ask, in order to save the time of the convention, to withdraw his proposition.

Mr. MACLAY said, he felt it to be his duty to renew it.

And the amendment was renewed accordingly.

Mr. CHAMBERS said, that he sincerely hoped the amendment would prevail. If it should prevail, (said Mr. C.) it will still be left discretionary with the senate to sit with closed doors, or not, according as they may think necessary or proper; but if the provision is adopted in the form in which it now stands, it will be imposed upon them as a matter of necessity, to sit with open doors when acting on executive nominations, no matter how important or urgent may be the reasons why a different course should be adopted. Under this provision, thus absolute in its terms, the members of the senate cannot advise with one another, nor with the governor, except by doing so publicly. Now, Mr. President, as the senate are, in this matter, called to act upon as counsellors, whose communications one with another might be of a confidential character, it is right and proper that they should have the power to sit with closed doors; or, at all events, that they should be at liberty so to do, if they choose. I would leave the matter discretionary with them, as it will be, if the amendment should be agreed to.

So far as regards the confirmation or rejection of the nominations of the governor, the community will be informed of the votes of the senators

upon them, because the subsequent part of this section provides that "the vote shall be taken by yeas and nays." The people will thus know how the senators vote—for there will be the record of the yeas and nays. We know that, in the senate of the United States, when that body is engaged on executive business, it is the practice during the great part of the time to sit with closed doors. When they choose that any part of their proceedings should be disclosed, it can be done with their own consent. This appears to me to be the most proper and reasonable course.

Mr. REIGART said, that he was not in favor of the amendment which the gentleman from Franklin, (Mr. Dunlop) had first proposed to this section. There is, it is true, (said Mr. R.) a provision in the constitution of the United States, under which the senate may sit with closed doors, when acting upon executive nominations, and it is true, that they do so. But I apprehend that the same reason which applies there, has no application in the present case. Why does the senate of the United States sit with closed doors? They have to act upon treaties—upon questions having reference to intercourse with foreign nations. This, I apprehend, is the reason why their proceedings should not be made public; and it is only the necessity of the case which induces that body to sit with closed doors. But, I take it for granted, there are no cases of such a character coming before the senate of Pennsylvania. What are the nominations upon which that body will be called upon to act under this provision? They are of a judicial character. I do not concur in the opinion which has been expressed, that the senators would have fears of public opinion, or would be afraid to speak the truth and the whole truth, in relation to any matter which might be brought before them. This is the first time I have ever heard the senate of Pennsylvania charged with fear: never before have I heard it intimated that they would shrink from the discharge of their duty. They are independent of the people for three years, and none are sent to the senate, except men of character and respectability, who are not very likely to be affected by such influences as have been referred to.

In doing that which they considered right, they had nothing to fear. They were acting in an official capacity. He was in favor of retaining it. As the convention had introduced it, he hoped it would be retained.

Mr. MACLAY, of Mifflin, moved to amend the amendment by striking out the words "that in acting on executive nominations, the senate shall sit with open doors."

Mr. M. asked for the yeas and nays.

The question was then taken on agreeing to amend the amendment, and it was decided in the negative—yeas 52, nays 64.

YEAS—Messrs. Agnew, Baldwin, Barclay, Barndollar, Biddle, Brown, of Lancaster, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Clapp, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Cline, Cope, Crain, Crawford, Crum, Curl, Donagan, Doran, Dunlop, Farrelly, Fleming, Foulkrod, Fry, Hastings, Hayhurst, Helfenstein, Hopkinson, Ingersoll, Kerr, Krebs, Lyons, Maclay, Magee, Martin, Merrill, Montgomery, Niven, Pollock, Royer, Russell, Saeger, Scott, Serrill, Sill, Snively, Thomas, Todd, Sergeant, *President*—52.

NAYS—Messrs. Banks, Bedford, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Coates, Cochran, Cox, Craig, Cummin, Dailington, Darrah, Denny, Dickey, Dickerson, Dillinger, Donnell, Earle, Forward, Fuller, Gamble, Gearhart, Gilmore,

Grenell, Harris, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, High, Houpt, Hyde, Jenks, Keim, Kennedy, Konigsmacher, Mann, M'Cahen, M'Dowell, M'Sherry, Merkel, Miller, Overfield, Payne, Pennypacker, Purviance, Reigart, Read, Riter, Ritter, Scheetz, Sellers, Seltzer, Shellito, Smyth, of Centre, Smith, of Columbia, Stickel, Stardevant, Taggart, Weaver, Weidman, White, Woodward, Young—64.

Mr. FORWARD, of Allegheny, moved to amend the amendment by striking out the words "nominate, and by and with the advice and consent of the senate," and all after the word "constitution."

Mr. F. would merely say, that when this subject was before the convention at Harrisburg, he had the honor of submitting his views at length. He believed that the amendment of the committee would be fraught with much mischief, and in practice cause great inconvenience. He asked for the yeas and nays.

Mr. BELL, of Chester, said he had only to say in answer to what had just fallen from the gentleman from Allegheny, that, having listened to him with a great deal of pleasure at Harrisburg, yet he (Mr. B.) had heard nothing which should induce him to change his opinion in regard to the amendment, which had been proposed there. He believed that it had been carefully examined by the committee, and they had expressed their opinion that it ought not to be inserted. He hoped, therefore, that the amendment would not be accepted by the convention.

Mr. KERR, of Washington, observed that an objection having struck his mind very forcibly, he would ask the delegate from Chester, when he should resume his seat, to give him some explanation in reference to it. If the convention should adopt the amendment giving the power to the governor to "nominate, and by and with the advice and consent of the senate, appoint all judicial officers of courts of record, unless otherwise provided for in the constitution," and supposing it to happen that shortly after the adjournment of the legislature, say in April, the president judge of a judicial district should die, then an appointment could not be made to fill the vacancy until the meeting of the next legislature in the month of January following. Now, this was a very serious and strong objection in his (Mr. K's.) opinion to the section. Besides, in all probability, the appointment would not be made immediately, as a difference might arise between the governor and the senate in relation to it, and it might be put off until near the close of the session, or perhaps it might go over it. Then a district composed probably of three or four counties, as the district of Washington was, would be without a president judge for nine or twelve months, which would be very inconvenient to the people, and it would put an end to the administration of justice, at least, for that period.

The associate judge of a county might die, and then there would be only the president judge left. This was a difficulty which he could not reconcile to his mind, and knew not how it was to be got rid of, or he would feel disposed to support the amendment. He hoped that the gentleman from Chester, who proposed it, would give the convention his views with regard to the objection he (Mr. K.) had just suggested.

The difficulty, he thought, might be obviated by giving the governor authority, in another part of the constitution, to fill the vacancies during the recess of the senate. He would ask whether any lawyer in Pennsylvania would accept such an appointment for six or nine months only, for it had been stated in this convention that no good lawyer was to be found

who would take an appointment on the bench, for ten or fifteen years. The question was, if the constitution gave this power to the governor to fill vacancies during the recess of the legislature, would it be possible to obtain men to fill the appointment? He repeated his hope that the delegate from Chester, would give the requisite information on these points.

Mr. BELL said, that if the motion of the delegate from Allegheny, should be negatived, he would move to amend the amendment by inserting after the word "constitution," the following :

"He shall have power to fill up all vacancies that may happen in such judicial offices during the recess of the senate, by granting commissions which shall expire at the end of their next session."

And the question on the amendment of Mr. FORWARD, was then taken.

And on the question,

Will the convention agree so to amend?

The yeas and nays were required by Mr. FORWARD and Mr. FLEMING, and are as follow, viz :

YEAS—Messrs. Agnew, Baldwin, Barndollar, Biddle, Brown, of Lancaster, Carey, Chandler, of Chester, Chandler, of Philadelphia, Clapp, Clarke, of Beaver, Clark, of Dauphin, Coates, Cochran, Cope, Cox, Craig, Crum, Darlington, Denny, Dickey, Donagan, Farrelly, Forward, Harris, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, Hopkinson, Houpt, Jenks, Kerr, Konigsmacher, Maclay, M'Dowell, M'Sherry, Meredith, Merkel, Montgomery, Pennypacker, Pollock, Reigart, Royer, Saeger, Scott, Serrill, Sill, Snively, Thomas, Todd, Weidman, Young, Sergeant, President—53.

NAYS—Messrs. Banks, Barclay, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Chambers, Clarke, of Indiana, Cline, Crain, Crawford, Cummin, Curll, Darrah, Dickerson, Dillinger, Donnell, Doran, Dunlop, Earle, Fleming, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hastings, Hayhurst, Helfenstein, High, Hyde, Ingersoll, Keim, Kennedy, Krebs, Lyons, Magee, Mann, Martin, M'Cahen, Merrill, Miller, Nevin, Overfield, Payne, Purviance, Read, Riter, Ritter, Russell, Scheetz, Sellers, Seltzer, Shellito, Smith, of Columbia, Smyth, of Centre, Stickel, Sturdevant, Taggart, Weaver, White, Woodward—66.

So the amendment to the amendment was rejected.

A motion was made by Mr. BELL, to amend the said amendment, by inserting after the word "constitution," in the fifth line, the words as follows, viz :

"He shall have power to fill up all vacancies that may happen in such judicial offices, during the recess of the senate, by granting commissions which shall expire at the end of the next session."

Mr. BELL said, he need not detain the convention with any remarks on the propriety of adopting this amendment. It would be seen that it was a mere transcript of a similar provision in the constitution of the United States. The word section in the second article of that instrument, (paragraph three) was in the following words, viz :

"The President shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session."

Mr. BELL, trusted the amendment would be adopted, without further discussion.

Mr. EARLE suggested to Mr. Bell, to modify his amendment by adding thereto, the words "when necessary."

Which suggestion Mr. BELL declined to accept.

And, the question being then taken, the amendment to the amendment was agreed to.

A motion was made by Mr. DICKEY to amend the section as amended, by inserting after the word "record," in the 4th line, the words following, viz :

"And all other officers whose offices are, or shall be established by law."

Mr. DICKEY said, he was of opinion, that if the constitution was to give one appointment to the governor and senate, it might as well give all.

Mr. EARLE said, that the opinions of gentlemen in relation to the legislature, were apt to undergo very considerable changes. At one time, said Mr. E., it is fashionable to represent the legislature, as a body that may safely be trusted with all power, whatever may be its extent or character. It is fashionable sometimes, for instance, to represent them as a body fit to be trusted with the power to grant perpetual charters.

At other times, it is fashionable to represent them as a body not to be trusted with any thing. For my own part, I do not go to either of these extremes. I believe that the legislature may be trusted a great deal, but still I think that they require a little check. At all events, it is my opinion, that they may be trusted more safely than the governor. A number of the states of this union, originally vested the appointing power in the legislature, and I believe that some of them have even found it necessary to make a change. In some of these states they have had conventions for the purpose of revising the constitution, but they have not taken away the appointing power from the legislature, and given it to the governor. I am willing that the legislature should make offices, and that they should vest the appointment in themselves. It might be better still, to vest it in the people, but it had better be vested in the legislature, than in the governor.

According to the usage of this government, persons receive their offices from the governor by means of party nomination. There are individuals, in each county of the state, who have been active in securing the election of the governor. It is known to all of us, that he becomes personally acquainted with individuals in each county, who obtain his favor in behalf of persons whom they may wish to elevate to some particular office. In these cases, they are not the proper persons to judge as to the propriety of the appointment, nor, under such circumstances, is the governor. This difficulty does not lie in the way, if you give the appointment to the legislature; because, there will always be found a number of persons from each district, acquainted with the different candidates, and if one individual acts upon personal partiality, we cannot expect that all will do so. But it is very easy to produce such a bias on the mind of the governor. There is, moreover, another consideration which strikes my mind with much force. You cannot hold a governor responsible for any improper appointments he may make, because, the excuse is, that he is not to blame—that he lives at a distance, and that all the fault is to be

laid at the door of those who advised him. But if you vest the power in the legislature, the yeas and nays are to be taken upon the appointment, and you will then know how every man votes.

I hope the amendment will be rejected ; and, if I thought that such a motion would have any prospect of success, I would move to strike out from the section, that portion which gives to the governor the power of appointment, in the cases of judicial offices, of courts of record. I fear, however, that it will be useless to propose such an amendment.

Mr. MERRILL, of Union, said the gentleman could not mean the legislature of Pennsylvania. If he meant the legislature of Virginia, or of Ohio, or any other of the states where the appointments are made by the legislature, it was another thing. His course of argument was very surprising. He now proposed to put a large amount of additional power in the hands of the legislature. It was right that there should be some provision in the constitution, in reference to the appointment of judicial officers, and he would ask, why were not the governor and senate as competent to make other appointments, as they are to appoint the judges ? He thought it was highly proper, that in this section, there should be this general provision. It would be a needless task, to meet all the arguments brought forward against this proposition. If these appointments were to be made by the legislature, the effect would be, to withdraw their attention too much from their legislative duties. Taking every view of the subject, the way now proposed was the best, and this the most proper place to introduce these officers. He hoped that the amendment would be adopted. The people do not wish the attention of the legislature to be distracted from the duties which properly belong to them.

Mr. READ, of Susquehanna, moved that the convention adjourn.

The PRESIDENT, asked and obtained leave of absence for a few days, from to-day.

The PRESIDENT then announced to the convention, that agreeably to the rule of the convention, he had appointed Mr. CHAMBERS, to officiate as president in his stead, during his absence.

The convention then adjourned.

TUESDAY, JANUARY 16, 1838.

Mr. MANN, of Montgomery, presented a memorial from citizens of Montgomery county, praying that measures may be taken so as effectually to prevent all amalgamation between the white and coloured population, so far as regards the government of this state; which was laid on the table.

Mr. BIDDLE, of Philadelphia, presented the memorial of the "Association of Friends for advocating the cause of the slave, and improving the condition of the free people of colour," praying that no alteration may be made in the constitution, in regard to the right of suffrage, based upon the complexion of the individual. He asked for the reading of the memorial.

The secretary having proceeded for some time in the reading of the paper,

Mr. HASTINGS, of Jefferson, moved to dispense with the further reading.

Mr. BIDDLE hoped that the whole would be read. It was from a very respectable body of persons, and, if not printed, it ought to be read.

Mr. DARLINGTON, of Chester, moved to amend the motion of the gentleman from Jefferson, by adding to it the words, "and that the memorial be printed."

Mr. HASTINGS then withdrew his motion to dispense with the further reading.

Mr. MARTIN, of Philadelphia county, renewed the motion. As far as it had gone, the language was such that it ought not to be read. There may be honest differences of opinion on the subject, but we should not permit such an attack to be made on us.

Mr. CUMMIN, of Juniata, was opposed to the reading for the reason that this and every other memorial stated what was not the fact—that these people have always been entitled to the rights of citizenship, and that the convention of 1790, and the Declaration of Independence gave them the privilege. There was no such thing to be found in our records: and when gentlemen of such talent and eloquence, present this as a matter of fact, he would say that it had never been admitted as such. Such arguments had been used before: but though they were reiterated, we must return to first principles. The coloured race are a distinct people: and have always been held by our citizens at large as to be subjected to a separate and distinct law. He hoped the memorial would neither be read nor printed.

Mr. BIDDLE said that if there was any subject which ought to be considered with calmness, and decided with deliberation, it was this. He would not now go into an argument which would come up when the main question should be before the convention. But he must be permitted to

deplore that, on this preliminary question, some gentlemen should have exhibited a display of feeling which did not augur well of the temper with which this matter would be hereafter discussed. What is the aspect in which things now stand? What is the situation of this class of our citizens? They send here a memorial. It is not read half through, when a motion is made that the further reading shall be dispensed with. Is this treating the sacred right of petition in the proper way? Is this regarding it with that importance which it has a right to demand of us? No matter how we may determine hereafter. Let us, at least, show that we are not afraid to listen to argument, and that we have sought for information in every direction. If there be any question of more than ordinary importance, it is that of the right of suffrage, and when a petition is presented to us, in reference to this subject, shall we respond to it by insulting the petitioners? He hoped, that when on all other subjects, we evince a willingness to hear, we shall not reject a memorial on this as objectionable.

He had always been induced to suppose, that if there was a cry which would reach the human heart, it would be that in behalf of the persecuted, whether persecuted for colour, or for any other cause. He hoped the convention would be disposed to treat this matter calmly.

Mr. M'CAHEN, of Philadelphia county, said that after listening to that part of the memorial which had been read, he concluded that it was a reply to a portion of the argument which was contained in the petition presented yesterday. He thought it only proper that both the arguments should be before the convention.

He would therefore move to amend the motion of his colleague, (Mr. Martin) by adding to the end thereof the following words: "and that it be printed, in connexion with the memorial presented yesterday."

Mr. MACLAY, of Mifflin, said he had heard strange objections urged against the memorial which had been just presented. One gentleman objects to it, because he thinks the language disreputable; and another urges in opposition to it that its facts are not true. He thought both these objections were strange.

While the gentleman from Juniata, (Mr. Cummin) was speaking, it had struck him that all the objections might be very well summed up in an old distich, which was none the worse for being trite, and which runs thus:

I do not like you, Doctor Fell!
The reason why, I cannot tell:
But this I do know, passing well—
I do not like you, Doctor Fell!

Mr. M'CAHEN asked for the yeas and nays on his amendment, and they were ordered.

Mr. BROWN, of Philadelphia county, expressed his dislike to be charged by others with doing wrong, or being guilty of a disgraceful act. It was charged in this memorial that we did stand in this predicament.

He would read a passage from the memorial which, in this respect, appeared to be highly exceptionable. [Mr. B. here read a short extract.]

Mr. CHANDLER, of Philadelphia. Will the gentleman read the memorial entirely through, and then he will know all about it?

Mr. BROWN said he hoped we should not put on record what tended to our own disgrace. He understood it to be the object of a gentleman near to him to move for the appointment of a committee to whom all these petitions might be referred. He had no objection to arguments being presented here: on the contrary, he was always willing to hear them. But there was a great distinction to be drawn between arguments, and assertions which were calculated to fix disgrace upon us. He hoped this memorial would be laid on the table, or referred to a committee. This was the usual practice. The president of this body, when he received an improper petition suppressed it, and no delegate had ever thought of throwing censure upon him for taking that course.

Mr. EARLE, of Philadelphia county, replied, that the gentleman thought it was in order, when a debate was in progress, on a motion to insert the word "white" in the constitution, to speak of a foul plot, and to use other terms equally strong; and surely it was in order for the petitioners to say as much as the gentleman had said in debate.

The gentleman from Juniata had certainly no right to offer insult to these petitioners. He was astonished to hear such language emanate from a democratic source—to listen to such anti-democratic doctrines from that quarter. He was very sorry that the convention had got into such a condition, that they could no longer bear that the truth should be spoken to them.

I think it is entirely unnecessary to print these petitions, because this article will, I presume, come up for consideration to-morrow. But if there is to be any printing at all, I hope that no favor will be shewn to one more than another—that we shall exhibit fairness and equality in all we may do.

I move, therefore, to amend the amendment by adding thereto the following words, viz:

"The petitions of persons of colour of the city and county of Philadelphia."

Mr. CUMMIN, of Juniata, said he had no sort of objection that petitions and memorials, such as these, should be read, listened to and recorded; but he had very great objections to statements which were not sustained by facts.

If (said Mr. C.) they would admit the degradation of the coloured race in times past and their exclusion from privileges given to the whites, and would pray that they might now enjoy those privileges, I would agree that it may be right enough to attend to them. But here are people setting themselves up as being in every respect a superior race of people to the whites; superior in integrity, superior in industry, superior in morals. Let them come out according to the true principle; let them say that they have been heretofore deprived of those rights and privileges which they ought to possess, and let them ask that they may be placed by the constitution of this state on the same footing with the white race as to right of suffrage, as to electing and being elected. That would all be well

enough. But to hear them say, that they have in times past been in possession of such rights and privileges, and that they are now about to be deprived of them, is a statement which it is not proper to make to this body. It is not true.

Mr. BIDDLE said that the gentleman from the county of Philadelphia, (Mr. Brown) had objected to this petition, that it contained aspersions on the motives of the members of this convention, and that, therefore, it ought not to be read.

Now, (said Mr. B.) I think that the gentleman is mistaken. I think he will discover that the petition contains nothing of this objectionable kind. It certainly does express the opinion that to alter the constitution of the state of Pennsylvania, so as to prevent a particular class from exercising the right of suffrage, would be to place a blot on that instrument. Is an expression of an opinion of this kind, even though couched, as I admit it to be, in very strong language, to be considered as an imputation upon the members of this body? I think not. I take the ground that it casts no imputation upon the motives or the conduct of any man, or any set of men, in this convention.

But how do we arrive at the knowledge that there is any thing in the petition which, even according to the opinion of the gentleman from the county of Philadelphia, is to be regarded as improper or disrespectful? The gentleman took the petition from the desk of the secretary, and read a paragraph of it. Are we not to be allowed to have the contents? Are we to have part only of the petition, and not the whole, which might explain any particular part which might, of itself, seem to bear an objectionable construction?

It has been said also that there are assertions in this paper which are not supported by facts, assertions which are known to be untrue, and that therefore, it ought not to be read. There are matters connected with this subject about which differences of opinion may prevail, and about which also it is known that great difference of opinion does prevail in this body. If we are to hear an opinion on the one side, are we not bound also to hear the opinion on the other?

A few days ago, when a petition was presented from coloured people, we refused to print it. But now, a portion of those whom none will deny to be our fellow-citizens, whose complexion are as fair as our own, approach us in the language of petition. Shall we not hear them? Shall we turn a deaf ear to what they have to say? And why so? Because they ask us to make a great change, and because they entertain favorable opinions in behalf of a class of people whom they regard as an oppressed and persecuted race. Sir, I think that so far from these being reasons why we should not listen to the prayer of these petitioners, they are reasons why we should listen to them with respectful attention. And most especially ought they to be listened to by such of the members of this body, as are opposed to granting the prayer of the petition. Those who are in favor of it, need not read the petition; but those who are opposed to it and refuse to hear it read, show, by that very act, that they have come here with minds prepossessed and closed against the admission of reason or argument on the one side of the question, however forcible that reasoning and that argument may be. I do not think that any gentleman here will

adopt a course of conduct so contracted. On the contrary, I anticipate a general, if not a universal vote in favor of reading this petition. I trust I shall find that my expectations will not be disproved by the result.

Mr. DARLINGTON, rose to inquire of the Chair, what was the true state of the question before the convention—and if the motions which had been submitted—and which he believed were three in number—had been reduced to writing; and, if not, he intended to require that they should be?

Mr. DICKEY, here moved, that the petition might be read.

The CHAIR said, that the latter motion was not in order. The reading of the petition had been asked, in the first instance, by the gentleman who presented it. A motion had then been made to suspend the reading, which latter, was now one of the pending motions.

Mr. STERIGERE, rose to inquire, whether the reading of this paper was not a matter of right?

The CHAIR said, that it certainly was a matter of right, but that it was in the power of a majority of the convention, at any time, to suspend the reading.

Mr. MARTIN, therefore, withdrew his motion, to suspend the farther reading of the said paper.

The secretary then proceeded with the reading, and the same having been concluded.

Mr. M'CAHEN, called for the reading of the memorial presented yesterday, and, to which, the memorial just read was intended as a reply.

Mr. EARLE said, that the hour devoted, under the rule, to the consideration of resolutions, had almost elapsed. If it was in order, he would move that the farther consideration of that motion be postponed until to-morrow.

After some conversation,

Mr. M'CAHEN withdrew his motion.

A motion was made by Mr. M'DOWELL,

That the convention re-consider the vote heretofore taken on the following resolution;

Resolved, That the following new rule be adopted in convention, viz: "That when any twenty delegates rise in their places and move the question on any pending amendment, it shall be the duty of the presiding officer to take the vote of the body on sustaining such call: and if such call shall be sustained by a majority, the question shall be taken on such amendment without further debate.

This motion gave rise to some desultory discussion on a point of order.

Whereupon, Mr. M'D. withdrew his motion.

ORDERS OF THE DAY.

The convention then resumed the second reading, of the report of the committee, to whom was referred the second article of the constitution, as reported by the committee of the whole.

The question recurring on the amendment to the eighth section, as amended by the committee of the whole, by inserting after the word "second" in the fourth line, the words "and all other officers whose offices are or shall be established by law."

Mr. READ said, that the short discussion which arose on this subject last evening, had taken place during a general confusion, and an unreasonable amount of noise—so much so, indeed, as to render it almost impossible to hear any thing that was said. I believe, said Mr. R., that I heard generally the remarks which were made by the gentleman from Union, (Mr. Merrill) but I could not hear a syllable of what fell from the gentleman from the city of Philadelphia, (Mr. Scott.)

I understood the gentleman from Union to assume the ground, that it was necessary to make a provision in this case as we went along, lest the matter should not be understood. I will call the attention of the convention, to a provision which has been made in the seventh article of the constitution, on this very subject. If we have any disposition to progress with our business, or any hope that we shall ever bring it to a close, we ought to take this question up on the seventh article, in the same manner in which it was considered in committee of the whole. I thought I understood the gentleman from Union to say, that if we did not adopt the amendment, there would be a *casus omissus*: a case not provided for. The case is fully provided for in the seventh article, and the committee has solemnly determined, that the seventh article was the proper place in which to make a disposition of this matter.

To adopt this amendment, would be, in effect, to disregard an amendment which has been adopted in committee of the whole, to the seventh article of the constitution. Mr. R. then alluded to the great patronage which the amendment would bestow on the governor, and concluded by expressing his hope that it would be negatived.

Mr. DENNY said, that he rose to express a hope, directly contrary to that which had been expressed by the gentleman who had just taken his seat. I hope, said Mr. D., that the amendment of the gentleman from Beaver will be agreed to. I am disposed now to regard it as being of more importance than I thought it last evening; for such were the hurry and confusion attending our last evening's session, that many of us did not feel inclined to give to the amendment that consideration which, as it now appears to me, its importance entitles it to receive. Nor do I think, that the amendment clothes the governor with that extensive patronage, which the gentleman from Susquehanna, (Mr. Read) supposed. We do not know, to what extent the legislature may provide for the establishment of new officers; it may be to a greater, or a less extent. We have no means of judging. Those of us, who are acquainted with the manner in which appointments are got up in the legislature,

would feel great regret at not making a provision to guard against that inconvenience, because we know, that there is great inconvenience resulting from it, and that it gives room for much suspicion against the members of that body. I have, it is true, raised my voice on this floor, against the attempts which were made, to bring odium upon the legislature, but I do not hold to the doctrine, that the legislature is infallible. The members of that body are like ourselves—like other human beings; they may err, and sometimes, we know, men may get into that body, who may allow themselves to be governed by improper motives in what they do. I think, therefore, knowing as we do the materials of which the legislature is composed, that we should keep them as far from temptation as possible, and that we should not, by any act of ours, bring them into a situation in which they may be liable to err. This is a very important matter, to reserve in the constitution this residuary power of appointment, to provide for contingencies, to provide for vacancies, to provide for offices which may hereafter be created. Those officers, it is true, may not be many, but whether they be few or many, I think that the power should be retained in the executive branch of the government. The legislature, in making new offices, may make them subject to, and in conformity with the provisions of the constitution, and, if they would not do it, they are undeserving of having power in their hands, because such a proceeding would shew, that they retained the power for sinister purposes. Why should they create offices which do not come under the fundamental law of the state, when we, so far as we can fix the matter, say that these offices shall be filled in another way, and not by them? If we would keep the legislature pure, we should retain this power of appointment in the hands of the executive, and of the senate—if, in the opinion of this convention, the senate should be connected with the governor in the exercise of this power. There are undoubtedly evils which may arise from that condition of things, in regard to which I will not enter into details at this time. But, I hope that we shall not, so far, depart from that which we wish to put into the fundamental law of the state of Pennsylvania, as to leave the residuary power—if I may be allowed so to call it—in the hands of the legislature.

Mr. BELL, of Chester, said, that he had not risen with any view again to travel over the ground which had been passed over at Harrisburg, when this question was under consideration in committee of the whole. It has been decided, said Mr. B., by a solemn vote of this convention, that the people of the commonwealth of Pennsylvania required at our hands, that the patronage of the governor, over-grown and excessive as it then was, should be reduced, and that the power of appointment to office should be vested in some other source.

The amendment of the gentleman from Beaver, (Mr. Dickey) is to restore the power which has been denied by this body. The effort now is, to give to the governor the power of filling offices now created, or which may hereafter be created by law. The major part of the officers of this commonwealth, are creatures of the statutes, and not of the constitution. The question then presents itself, whether we will take from the governor, that power which is found to be dangerous, and which it is the well known wish of the people to reduce. This, sir, is the question which we are called upon to decide.

The gentleman from Susquehanna, (Mr. Read) says, that all this is provided, for by amendments made in committee of the whole at Harrisburg, to the seventh article of the constitution. These amendments have not yet been printed, and I have looked in vain to find them.

Mr. READ said, that he was in error, in saying that the amendment would be found in the seventh article; it was to be found in the sixth, and not in the seventh article.

The sixth article, as adopted in committee of the whole, provided, "that all officers, whose election or appointment is not provided for in this constitution, shall be elected or appointed as shall be directed by law."

Mr. BELL said, that, as that was an important amendment—if such indeed there were, he would like some gentleman to refer him to the page of the journal, where it might be found.

Mr. AGNEW referred the gentleman from Chester to page 140, of the minutes of the committee of the whole,—being the proceedings of the convention in committee of the whole, on Wednesday, October 18.

Mr. BELL resumed.

In looking to the history of the amendment now under consideration, he was struck forcibly with the contest which we had on this subject in committee. He then referred to the action had upon it, in committee of the whole, and stated that it had been passed over, for the purpose of getting rid of the discussion and difficulty which the committee had, in relation to this subject.

This, however, now seemed to be the proper place to put those restrictions on the governor, which it was necessary to place upon him, and all must admit, that to restrict the power of appointment by the governor, was one of the great objects of calling this convention. We have taken from the governor, at present, all his patronage in the shape of appointments, and what reason could there be urged for permitting another power more dangerous than the first, to grow up, and be placed in his hands. It must be evident that it would be a singular anomaly for us to pretend to reduce the patronage of the executive, while we permitted this enormous patronage to grow up in the hands of future executives.

He held to his original idea, that this was the proper place to introduce this matter of restrictions, upon the future power of the executive, and for the purpose of trying the sense of the convention upon it, he would, so soon as the amendment of the gentleman from Beaver (Mr. Dickey) was disposed of, introduce the amendment he had proposed in committee of the whole, on this subject. It would then be for the convention to say, whether or not, this was the proper place for introducing these restrictions.

Mr. HIESTER considered the amendment of the gentleman from Beaver, (Mr. Dickey) an important amendment, as it proposed to carry out that system of checks and balances, so necessary in a republican government. What, sir, did the framers of the constitution of 1790, think on this subject? By the eighteenth section of the first article, it is declared that:

"No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office under this common-

wealth, which shall have been created, or the emoluments of which shall have been increased, during such time."

Here you will perceive that the framers of the existing constitution, were so cautious, that they would not even allow the governor to appoint any senator or representative to an office that was created, or its emoluments increased by themselves.

There is a similar provision in the United States constitution, carrying out the principle, that when a legislator creates an office, he shall not himself reap the benefits of it.

Well, what are you now going to do, if you do not agree to the amendment proposed by the gentleman from Beaver (Mr. Dickey?) Why, you are going to leave the power in the hands of the legislature—the power of creating offices, and then immediately filling those offices themselves. Thus, will you leave this odious principle engrafted in your constitution, by the rejection of this amendment; and, furthermore, your constitution will be inconsistent with itself.

In one article, you will have a restriction, prohibiting the governor from appointing representatives to offices created by themselves, and in another, you will have a provision, authorizing the representatives to create and fill offices.

It was said, however, that the representatives would not abuse this trust which might be reposed in them. Well, if you carry out that principle, you will need no constitution at all. It is the very object of our constitutions, to place checks and guards upon our legislature, as well as upon every other branch of our government. This seemed to him to be an entirely proper amendment, to prevent and prohibit the legislature from creating offices and filling them themselves. There must be a residuary power of appointment somewhere, and he could conceive of no place which would be more safe to rest in, than in the hands of the executive.

The creating power would then be in the hands of the legislature, and the appointing power in the hands of the governor, and this would seem to be the best disposition of the matter which could be made.

He therefore trusted that this amendment might be agreed to, and if it was, it seemed to him that the whole section would be in such a shape as not to be objectionable to many of the members of this body.

Mr. EARLE begged leave to ask gentlemen whether they were prepared to adopt a principle, that the people of this country shall not be sovereign? Are gentlemen willing to adopt a principle which will prevent the people, when new offices may be created by law, from filling them, in such manner as they may think proper—by election or otherwise? If the people wish to elect some of these officers, whose offices have been created by law, will you say to them that the appointment is vested in the governor, and they must not have this power? If the people desire that the election shall be vested in their representatives, will you deprive them of this privilege, and prevent them from exercising their sovereignty?

It seemed to him that gentlemen had not duly considered this matter. They have not looked to the dangers of executive patronage and execu-

tive influence, of which we have heard so much. It had been often alleged, that executive patronage, both in the national and state administrations, was extremely pernicious, and that it exercised an odious influence over the public mind.

The public journals of the day, had said much on this subject, and he was prepared to say that it was true, that executive influence, in both cases, was too great. The immense patronage of the president, and the governor of this commonwealth, raised up a strong and disciplined body of office holders, who were ever ready to support their executive, and ever ready to change their opinions and principles with that executive, and obey his commands in mass.

The influence of this trained band of office holders, is immense, because they not only exercise an influence over the minds of those who came immediately in connexion with them; but, they exercise an influence, through the means of the public press, over the whole country. It may be readily conceived how this can be done. Whenever a political emergency arises, the office holders go in mass for the executive, who will retain them, and they lend their names as endorsers, or contribute money on subscriptions, for the purpose of establishing or buying up presses, and by this means, the public press, in many instances, instead of speaking the sentiment of the public, speaks but the sentiments of the office holders.

Then, knowing that this is the case, let us guard against it, and take away that influence, which is so destructive of the principles of democracy. Let us guard and protect the press in its purity, because, unless the press is free, public opinion will seldom remain free.

He hoped that gentlemen who had said so much about the servility of party, would reflect well how that servility is produced, before they give their votes for this amendment.

The people have sent us here for the purpose, among other things, of reducing executive patronage; and are we to be so regardless of our trust, as to build up a system of executive patronage, even more odious than that which we have just destroyed.

We all know that an immense number of offices must yet be created in this commonwealth, connected with our system of internal improvements, and is it to be endured that all these offices are to be filled, in all time to come, by your executive? If this was to be the case, we have declared by the provision that we have already adopted, that we will reduce executive patronage to but little purpose.

Mr. FULLER regretted that the gentleman from Lancaster, (Mr. Hies-ter) should consider the amendment of the gentleman from Beaver, as a proper amendment to be adopted by this convention. He had a high regard for the opinion of that gentleman, but on this occasion, he thought he had fallen into an error.

What, sir, was the object which the people had in view, in calling this convention together? One of the greatest objects was the reduction of executive power and patronage. Well, if the amendment of the gentleman from Beaver prevails, will it be reduced? He apprehended it would not be, or if it would, it must be but partially.

Gentlemen might say to him, to be sure, that we have taken away a number of officers from executive appointment, and made the senate a part of the appointing power. But, to balance this, he would point you to the host of officers connected with your internal improvement system, whose appointment would be given to the governor, if this amendment is adopted.

He verily believed that the patronage of the governor would be increased, if this provision prevailed. There has been already created, between eight and ten hundred offices, connected with the internal improvement system of the state, since the year 1824, and will the number not yet increase, in proportion as your improvements increase? The probability was, that they would increase much more rapidly hereafter than they had done heretofore, and if this proved to be true, the patronage of the executive will be increased from what it now is, and it is now more of a subject of complaint among the people, than any other branch of the government.

The patronage of the governor of this commonwealth has been increasing, annually, for the last twenty or thirty years, and the people of the commonwealth, so far as we are able to learn, have become fearful and jealous of this immense power being left in the hands of one man, because they can see the danger of improper influence in elections, from the powerful advocate which the governor has in his host of officers, which are scattered throughout the country, in every county in the state. The people believe that improper influences have been exercised in this way, and they demand that this executive patronage may be reduced and restricted.

Now, if the amendment of the gentleman from Beaver prevail, it must be evident that the very object which the people aimed at, in calling this convention, will be defeated. It seemed to him that the gentleman from Beaver had pursued a singular course, in relation to this matter. On a former occasion, when it was proposed to place some restrictions on the legislature, the gentleman from Beaver was the strenuous advocate of that body, declaring that no restrictions at all were necessary, and now he cannot trust it with any power at all. At one moment, he would trust the legislature with all power, and the next moment, he will not trust it with any power at all.

Now, all he asked of gentlemen, was to trust the legislature in relation to this matter, so that the appointments may be fairly distributed, and not place them all in the hands of a single individual. If the report of the committee is adopted, without this amendment of the gentleman from Beaver, the legislature will have the power to create the office; and then say who shall fill it. They will have the power to say whether the appointment shall be made by the governor and senate, or by themselves, and whether the officer shall be elected by the people. They may say the governor shall appoint, the people elect, or that they themselves will elect, by joint ballot of the two houses.

Now, do gentlemen desire that the legislature shall not have the power of distributing these appointments in this way, in pursuance of the will of the people? It may be, when some important office is created by law, that the people will desire that they should have the election of the officer.

Well, in that case, would you deprive them, by this amendment, of the right of electing this important officer, and give his appointment to the governor. If so, you will be doing that very thing which the people now so much complain of. One of the greatest complaints which the people have to make against your old constitution is, that the governor can electioneer himself into office, after he has been once elected, by means of the influence which he exercises through those officers which he appoints, and unless this patronage and influence is taken away, the people will reject your constitution which you may send to them, or he was very much mistaken. It was impossible that the people could consent to have this immense executive patronage continued.

This question had undergone a full, free and deliberate discussion at Harrisburg, and was then rejected by a large majority, and he trusted it would now again be rejected.

Mr. MERRILL believed, with the gentleman from Fayette, that one of the great causes of complaint among the people, against the old constitution was, the extensive patronage and power of the governor, but he believed that the people never yet desired that power should be taken from the governor, and given to the legislature. They do desire that power may be taken from the governor and given to themselves, but they do not desire that power shall be taken from the executive department and given to the legislative department.

He was struck with the remarks of the gentleman from the county of Fayette, in relation to placing in the hands of the people, the power to elect all important officers, whose offices may be created by law, and with a view of providing a remedy to meet this case, he should, if this amendment was adopted, move to insert, after the word "law," the words: "except such officers as shall be elected by the people." Perhaps the people may desire to elect all their important officers, and in all such cases, it was his desire that they should have the power to do so.

He was willing that the power should be taken from the governor, of making all these appointments, but he was unwilling that it should be vested in the legislature. The governor is the proper appointing power, where appointments are to be made, but he would give all elections to the people, which could be given to them with propriety.

He thought, if the gentleman from Beaver would accept this as a modification of his motion, it would make it much more acceptable to the convention. He trusted, therefore, that the gentleman would accept of this modification.

Mr. DICKEY could not see any necessity for accepting the words suggested by the gentleman from Union, and he therefore could not accept of them as a modification. He thought that matter was sufficiently provided for, in the words immediately following the word "law," and if not sufficiently provided for there, it was in the sixth section, which had been referred to by the gentleman from Susquehanna.

He would now state the reasons why he was opposed to the legislature having the power left with it, of making these appointments. The two branches of the legislature and the governor, have the power of creating these offices. Then, would it be right that the legislature alone should

have the right to fill those offices? Why, if this was permitted, a few influential members of the legislature may obtain the passage of a law, creating a certain class of offices with large salaries, and have themselves, or their relatives, appointed to fill those offices for five, ten or twenty years.

Well, suppose they determine to elect them every year, which is most likely to be the case, would it be proper that many of the most important officers in your state government should be brought up before the legislature, for election, every year? What would you think of bringing in your surveyor general, auditor general and secretary of the land office, every year, to be passed upon by your legislature? These are three of the most important officers under your government, and he considered it entirely improper that these officers should be elected every year by the legislature.

Would you leave to the annual fluctuations of your legislature, the appointment of your auditor general, who has the settlement and control of all your public accounts? As we had associated the senate with the governor, in appointments, all appointments ought to be made by this power.

This was, in his opinion, the proper power for this purpose, and he hoped the convention would adopt it.

Then, if it was desired afterwards, that any other disposition should be made of it, the people would have the power of doing so, under the provision for future amendments, and, if it is desired that any of these elections should be given to the people, it could be done in this way. In relation to the officers connected with the internal improvement system, it seemed to him that the better plan would be to have them appointed by the governor and senate. We know that the appointment of canal commissioners, has, at one time, been made by the governor, and, afterwards, the law was repealed, and the appointments were made by the legislature.

When a governor was in power, who acted with the majority of the legislature, he had the privilege of making the appointments; but, so soon as a governor came in who was of a different opinion in politics, with the legislature, that power was taken out of his hands, and the legislature exercised it themselves. For this reason, all this matter ought to be provided for in the constitution.

There should, in his opinion, be no such discretionary power as this left with the legislature, because he saw very great danger which might result from it. We all know the immense number of officers which will be connected with our system of internal improvements, and the patronage and power of the legislature will be great and overweening, if they, in the first place, have the power of creating the offices, and then afterwards of filling them.

There may be a hundred important offices connected with this system, beside the thousands of minor offices, and your legislature may say that these offices should be filled for three or six years, and fill them accordingly. We know that the canal commissioners were, at one time, appointed for three years, and may not the legislature, for sinister purposes, say that a

certain class of offices shall be filled for three, six or ten years, and fill them for that length of time? He did think, that, in framing a fundamental law for the government of the people of a state, that all matters of this kind ought to be provided for and guarded against, and, with this view, he had proposed the amendment now under consideration, and hoped that it might meet with the favorable consideration of the members of this convention.

Mr. WOODWARD rose to call the attention of the convention to the fact, that this was the sixteenth day of January, and he hoped we were to have the privilege of starting for home on the second day of February. We have yet five articles of the constitution to consider on second reading, as well as the whole of the bill of rights. Now, he felt very great concern about the day of adjournment, and with a view of bringing this discussion to a close, which he thought had been sufficiently protracted, he now moved the previous question—which motion was seconded by eighteen members.

Mr. BELL called for the yeas and nays, on ordering the main question, which were ordered, and were—yeas 57; nays 63; as follows, viz :

YEAS—Messrs. Banks, Barclay, Bedford, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Clarke, of Indiana, Cleavinger, Craig, Crain, Crawford, Crum, Cummin, Curll, Darrah, Dillinger, Donagan, Donnell, Doran, Earle, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hastings, Hayhurst, Helffenstein, High, Hyde, Kennedy, Krebs, Lyons, Magee, Mann, M'Cahen, Miller, Nevin, Overfield, Read, River, Ritter, Rogers, Scheetz, Sellers, Shellito, Smith, of Columbia, Smyth, of Centre, Stickel, Sturdevant, Taggart, Weaver, White, Woodward—57.

NAYS—Messrs. Agnew, Baldwin, Barndollar, Barnitz, Bell, Biddle, Brown, of Lancaster, Corey, Chandler, of Chester, Chandler, of Philadelphia, Clapp, Clark, of Dauphin, Cline, Coates, Cochran, Cope, Cox, Darlington, Denny, Dickey, Dickerson, Dunlop, Farrelly, Fleming, Harris, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, Hopkinson, Houpt, Ingersoll, Jenks, Kerr, Konigsmacher, Maclay, Martin, M'Dowell, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Payne, Pennyacker, Pollock, Porter, of Lancaster, Purviance, Reigart, Royer, Russell, Saeger, Scott, Seltzer, Serrill, Sill, Snively, Sterigere, Thomas, Todd, Weidman, Young, Chambers, *President pro tem.*—63.

So the convention refused to order the main question to be put.

Mr. MERRILL of Union, said that he felt no disposition, at this time, to enter upon an elaborate speech or argument. It is, said Mr. M., of vastly more importance that whatever we may do, should be done right and well, than that we should hurry over the ground in any way we can, and with the sole view of getting through with the revision of the constitution. If the legislature should pass a law creating an office and providing the mode by which the office should be filled, no one of course could fill it. There ought, therefore, to be some general provision inserted in the constitution, vesting this power of appointment in some particular source.

In relation to the internal improvement system in the state of Pennsylvania, that has become so important of late years, that there ought to be some provision made for those appointments, and I, for one, would agree almost to any plan that could be devised, rather than I would consent that these offices should be thrown into the legislature, for the purpose of harassing their proceedings and consuming their time. I would have a board of improvement officers collected from the people. But surely it never

can be the intention of the members of this body to submit the constitution to the people, without having provided some plan by which these offices shall be filled.

There is also another matter to be taken into consideration. We propose that some provision should be adopted, by which all future amendments to the constitution should be accomplished through the legislature, and we seem to expect that the legislature should hereafter submit to the people amendments, having in view the curtailment of their own powers. Is this wise? But can we, in accordance with our own knowledge of the human disposition, do this? We may expect from the legislature amendments to the other departments of the government, but to expect it as to themselves, is too much. I have an insuperable objection to leave any thing to be done by the legislature, by means of which any restriction is to be placed on their own power. Whatever restrictions it may be proper to place upon the legislature, we ought now to propose. I believe it is our duty to propose them, and to make them now a part of the fundamental law—if they are required.

This is the reason why I cannot give full weight to the reasoning of the gentleman from Beaver, (Mr. Dickey.) He says that the legislature might, by a new amendment, deprive themselves of this power. They might, or they might not. Why should we, as wise men, acquainted with the dispositions and tendencies of the human character, expect that they would do so? And is it not more reasonable to expect that, when they had once got that power into their hands, they would be unwilling to part with it? I apprehend, therefore, that it is the duty of this convention to look most strictly to the legislature, because we propose, hereafter, to give them the power of proposing amendments to the constitution.

It has been said, that the legislature is the preponderating power in this government. If such is the fact, is it wise, is it politic in us, to give additional strength and power to that body? Are we to confer power upon it, and, by so doing, to cripple the other departments of the government, to take away from them the power which properly belongs to them, and which cannot be taken from them without disturbing that proper distribution of power among the various departments of the government, which is so essentially requisite to its due and equal administration? I am anxious to see an express provision inserted in the constitution, by which the legislature shall be prohibited from electing officers themselves. They may provide who shall elect those officers, but to create an office and to fill it by law, or by the joint election of the two houses, is a power which I think is improper, and which I, for one, cannot consent to bestow.

If, as has been said, the legislature is the preponderating power in this government, may they not hereafter, unless the utmost care and vigilance are exercised, absorb all the other powers of government? I do not wish to consume the time of this body unnecessarily; I am as anxious as any other gentleman that our labours should be brought to a close, so soon as they can possibly be closed with a proper regard to the duties and the responsibilities imposed upon us by those who sent us here. But I wish that every thing should be done right, that we should have nothing with which to reproach ourselves hereafter, when we shall have finally separated, and I will not, therefore, admit as a reason why any thing should be

left half or ill done, that we were in a hurry to get done with our business. It will not do to leave a provision, prescribing the manner in which an office shall be filled in one way or other. Let the legislature say who shall fill the office—let them institute an appointing power in any way; let it all be done by law, if gentlemen are so disposed, but let us not so leave the matter, as to make the legislature, at one and the same time, the makers of the law and the executors of the law. For these reasons, I am desirous that the proposition I have read, should be adopted as a modification of the amendment of the gentleman from Beaver, (Mr. Dickey.)

Mr. BROWN, of Philadelphia county, said that he could not but suppose that the constitution, or even the gentleman from Beaver himself, (Mr. Dickey) would go as far as this amendment proposed to go. Does the gentleman intend, said Mr. B., that the senate should appoint county commissioners in each county? for they are offices established by law. Would he take them from the people? I apprehend that the gentlemen does not entertain any serious intention of going to this extent. I understand that there is a provision in the amended constitution, the object of which is to prevent the legislature filling the offices which may be created by them. If so, there can be no danger of corruption—there can be nothing apprehended from that source. For my own part, I wish that all the county officers should be elected by the people. I trust that the majority of this convention will not consent to put in this clause giving to the governor the appointment "of all other officers whose offices are or shall be established by law." It is too much power to give to any one man. I, for one, am willing that the legislature should be trusted with this matter. I cannot see that the power can be exercised by them with any great injury, but I can see that it may be exercised with great good.

Mr. REIGART said, that he felt unwilling to dissent from the report of the committee of the whole, and for this reason. If, said Mr. R., we break in upon the report at all, there is no telling where we may stop. This matter was fully and freely discussed in committee of the whole, and then decided after proper deliberation and reflection. I repeat the expression of my apprehension, that we shall find no stopping place, if we once break in upon the report; and the sole question is, whether this residuum of power shall be left with the legislature, or whether it shall be left with the governor. I, for one, declare my belief, that if there is one thing upon which the minds of the people would have settled down with a fixed and resolute determination, it is upon an abridgment of the executive patronage. I have come here to advocate that principle, and do not mean to be driven from it, and, so far as individual efforts will go, to see that it is carried out. I am willing to leave the matter to the free representatives of a free people.

The question, then, as I have said, is narrowed down to this single point—shall we give this power to the governor, or shall we give it to the representatives of the people? Because, in giving it to the representatives of the people, we do in fact give it to the people themselves, for they may instruct their representatives. It appears to me, however, that it is entirely unnecessary to carry out details in this way in the constitution. Without further multiplication of words, therefore, I will only say, that I shall stand by the report of the committee of the whole.

Mr. MEREDITH said, that as to the remark which had fallen from the delegate from Fayette, (Mr. Fuller) that it did not become those who had maintained the ability of the legislature to discharge their duty faithfully, to object to give to the legislature, any power which it might be deemed expedient to confer upon them, he (Mr. M.) would say that he, for one, did maintain their ability to discharge their appropriate functions.

I have seen the time, said Mr. M., when in the hurry of business, they have refused to give time to matters which to them were of trifling importance, whatever they might be to others. This is an error in human nature. But I ask those who have denied to the legislature, the ability to discharge their appropriate functions with propriety, with what grace, they can now propose to heap upon them, functions which ought not to belong to them, and which cannot belong to them, in any free government. Where are those who talked about restrictions on the legislative action of the commonwealth? Those very gentlemen, scarcely get cool from the ardor of that debate, before they come here and propose to impose upon that body, functions which belong to the executive. What becomes of that division of power, to which every man assents, as an abstraction at least, and which is agreed to be absolutely indispensable to a free government? It is said, that the people are desirous that the patronage of the governor should be cut down. This has already been done to a considerable extent. We have taken from him a large number of appointments to judicial offices, and county offices, and have given them to the people. And, in relation to the higher judicial offices of the commonwealth, we have taken the appointing power from the executive, and have placed over him one branch of the legislature—to wit, the senate. And are we now about to declare that, in relation to all the rest, we will throw them at the mercy of the legislature—that legislature, which, we have been told, is not capable of discharging its appropriate functions with propriety? Are we going to throw the executive at the feet of the legislature? We are now asked to demolish the executive entirely, so far as the discharge of his functions is concerned.

Sir, we ought to look at this matter, not as a party or political question, or as a mere carrying out of the desires of the people, to clip the power of the executive. That we have already done. We ought to look at it upon the ground that, for the discharge of the functions of certain officers in the government, there would be no responsibility at all, if the matter were left in the hands of the legislature.

Let me ask any gentleman here, whether the action of the legislature is not indicative of a constant desire to encroach upon the executive? How has it been with the canal commissioners? How has it been with those officers who have been of most importance in the commonwealth? The time has been, when the legislature assumed the power of appointment, in spite of that clause which gave it to the governor. The only power in this government, which is capable of encroaching upon others, is this very legislative power, and when you have found by experience, that you can scarcely preserve to the governor any of his just and rightful prerogatives, you are going to remove all the checks which have heretofore existed—feeble as they have been against the progress of legislative encroachments,—and you are about to give to the legislature, the appoint-

ment to all offices in the commonwealth. I trust that every man who values the liberty he enjoys, or who looks forward to the preservation of our institutions, will reflect before he finally votes.

I trust, that whilst we are dividing the powers in the fundamental law of the state, we will divide them as we ought, and that we will not leave the appointing power to the will, the caprice, or the usurpation of the legislative branch of the government, which is always, because the members come immediately from the people, the strongest, and the least responsible branch, and which, without proper check, is the very body in whom must be found the grave of the security of our institutions. For these reasons, I shall vote in favor of the amendment of the gentleman from Beaver, (Mr. Dickey.)

If it is the intention of this body, to place the executive at the feet of the legislature—because we are afraid to trust the governor—you might as well declare it at once, and see if the people are ready to sustain you in such a measure; you had better ascertain whether the people are willing that the executive and the legislative power, should be vested in the same body. Your governor will become a mere cipher. With a few exceptions, the powers which have heretofore been exercised by him, will be left in the hands of the legislature, and it will not be long even, before they will be wrested from him. As to the election of the superintendents of the various canals and rail-roads by the people, it cannot be!

Who would be responsible for any appointment, within the several counties, which now come under executive patronage? How can a responsibility be enforced for any one office? I do not fear to trust the legislature with the exercise of their appropriate functions, but I will not consent to throw into their hands powers, which the experience of our government teaches us, they cannot exercise without destruction to our institutions. I repeat, therefore, that I shall cheerfully give my vote in favor of the amendment of the gentleman from Beaver.

Mr. STERIGERE, of Montgomery, said that he could not exactly comprehend the position, which had been assumed by the gentleman from the city of Philadelphia, (Mr. Meredith.) The idea held forth by that gentleman, said Mr. S., that under the operation of such a provision, as that now under discussion, the governor would become a mere cipher in the administration of the affairs of the state, does not seem to me, to carry with it much weight. It is to be recollected, that if appointments are made under different enactments, the approbation of the governor is necessary to those enactments, before they can become the law of the land. If he refuses to give his sanction to these enactments, they can only become laws, by the votes of a majority of two-thirds of each branch of the legislature.

In the course of our business here, we have directed our attention to the reduction and abridgment of executive patronage, in accordance with the views and wishes of the people, which have been clearly and unequivocally expressed. And what is the proposition of the gentleman from Beaver? It is to give to the governor, a greater power than he has ever exercised before. Is not this so? Sir, I am opposed to it entirely and absolutely. I am opposed to it, because, it comes directly into collision with the principles which I have been sustaining, from the beginning

of the proceedings of this body, down to the present time, and which I shall continue to advocate and sustain, to the extent of my ability. I am opposed to it, because, instead of curtailing the power and patronage of the executive, it confers upon him greater power and greater patronage, than he ever had.

We have heard much about responsibility. What is the responsibility of the governor? Sir, it is a mere shadow—there is nothing like substance in it. A governor of this commonwealth, exercising the powers and authority of this commonwealth under the votes of a minority of the people, cares nothing about responsibility. What is responsibility to him? He may disregard, as he does, the voice and the authority of the people.

With an officer of this description at the head of our government, the very idea of responsibility is absurd. We ought to carry out those principles which will be practically useful to the people. We care nothing about the dignity of a governor, or any other officer in the state. If we believe that one mode of appointment is better than another—that it is safer and more conducive to the welfare and the interests of the people, we should adopt that mode in preference to any other; it is our duty to do so.

I shall vote against the amendment of the gentleman from Beaver. I voted against the whole section in committee of the whole; and unless some amendment should hereafter be made in the section, in regard to the secretary, I shall vote against it again.

Mr. AGNEW, of Beaver county, said that there was one objection to the amendment proposed by his colleague which had not yet been stated, and which presented itself to his mind with considerable force. In the absence of that objection, said Mr. A., it is most probable that I should accede to the course of reasoning of the gentleman from the city of Philadelphia, (Mr. Meredith.)

The eighth section of the sixth article of the constitution, as amended in committee of the whole, declares that "all officers whose election or appointment is not provided for in this constitution, shall be elected or appointed, as shall be directed by law."

Now, according to my recollection, this amendment was adopted in committee of the whole, at Harrisburg, by a very large majority. I do not, therefore, feel disposed to run counter to the decided opinion of the majority of this convention, thus clearly expressed by their votes. There is, however, one point to which I would call attention for a moment.

By an amendment introduced into the article now under consideration, the senate is to exercise a controlling power in the appointments to office, therein mentioned, by means of their "advice and consent," which are rendered necessary upon the nominations which may be made by the governor.

The amendment of the gentleman from Beaver, (Mr. Dickey) puts all offices under the control of the senate. This puts a clog upon the governor; it takes away from him a responsibility, which, according to my view of the matter, ought to rest upon him alone. For my own part,

I have no notion that inspectors of hogs—of pearl-ashes—of lumber and the like, should be sent on the nomination of the governor, to be confirmed by the senate. Nor have I any idea that such should be the case, with an indefinite number of canal and rail road officers, who are scattered over our works of public improvement, in various sections of the state.

And yet, according to the amendment of the gentleman from Beaver, these must all be subject to the action of the senate. The consequence of such a state of things would be, that the senate would be in session during three-fourths of the year, or perhaps, even during the whole of it, to act upon the nominations of the governor, made under this amendment.

If the gentleman from Beaver would introduce his amendment in such a form, as that the controlling power of the senate would not be made applicable, I should vote for it; but I shall not vote for any proposition, giving to the senate a controlling power over all the minor offices. I do believe, however, that the arrangement which we have made, in relation to the appointing power, is improper. I believe that this residuum of power should not be left to the legislature. I believe that such a provision is contrary to the constitution of 1790, and to the principles which ought to prevail in every republican country; since it goes to destroy that distribution of power, which is essential to every republican form of government.

I will not speak of this matter farther, because the gentleman from the city of Philadelphia (Mr. Meredith) has spoken of it fully; but there is one defect to which I will call the attention of the convention. By the present section of the constitution—I mean, as amended,—the governor is to appoint a secretary of the commonwealth, and, by and with the advice and consent of the senate, he is also to appoint “all judicial officers of courts of record, unless otherwise provided for in this constitution.” We have provided for the election of county officers. In the sixth article of the constitution, as amended in committee of the whole, to which I have before referred, we have said that “all officers whose election or appointment is not provided for in this constitution, shall be elected or appointed, as shall be directed by law.”

This is the provision; but in the event of the creation of an office by law, and of the omission, by the legislature, to provide for the appointment, you are left, in the interval, without any power capable of filling the office, however much the public necessities may require it. The legislature, for instance, may adjourn in the month of April, after having passed a law creating an office, and if the legislature, before the period of its adjournment, has neglected to provide for the appointment, you have no means of filling an office which may thus have been established by law, until the legislature shall again assemble in the following December—thereby leaving a vacancy for the long period of eight months. This is an evil, which should be remedied by farther provision. It is entirely a *casus omissus* in the report of the committee of the whole.

My chief objection, however, to the amendment of the gentleman from Beaver is, that it gives to the senate a controlling power over every petty officer, who has, heretofore, been under the control of the governor alone.

It would be the means of adding an immense amount to the business of the senate, and would protract the sessions of that body to an almost indefinite extent.

If the amendment could be introduced in such a form as that the action of the senate should not be required on the nominations of the governor, I should feel myself bound to vote for its adoption. As it is, however, I must vote against it.

Mr. DARLINGTON, of Chester, said that he did not concur in the idea, which had been thrown out by the gentleman from Lancaster, (Mr. Reigart) that, because this question had been decided in committee of the whole, we should hesitate to review it; nor did he concur in the opinion expressed by the gentleman from Fayette, (Mr. Fuller) that this question had been deliberately decided by the committee of the whole.

So far, said Mr. D., from this having been the case, I will call the attention of the convention to a fact in which the journals of the house will fully bear me out, that the amendment now before us, was forced through the committee of the whole, by the application of the previous question, and by the votes of a minority of this body. To show that I do not speak without authority, I will refer the convention to page 62, of the minutes of the committee of the whole. I will read a paragraph or two:—

“A motion was then made by Mr. DICKEY,

“Further to amend the report of the committee as amended by inserting after the word “record,” the words “as well as all officers established by law.

“The said amendment being under consideration,

“The previous question was called for by Messrs. M'CAHEN, SMITH, PURVIANCE, DONAGAN, FRY, DILLINGER, WEAVER, OVERFIELD, CRAIN, TAGGART, NEVIN, SMYTH, MAGEE, SWETLAND, FOULKROD, FULLER, GILMORE and MILLER.”

And the main question, continued Mr. Darlington, which, as we all know, cuts off all amendments, was then ordered to be taken by a vote of 63 yeas against 55 yeas.

In view of these facts, I am not able to discover for what reason we should be bound in the slightest degree, to pass upon this provision without strict examination and inquiry.

What is the proposition of the gentleman from Beaver? Let us look at it for a moment, calmly and dispassionately, and let us ask ourselves whether that amendment ought not, in fact, to be agreed to, and whether the proposition which was brought to the notice of the convention, by the gentleman from Union, (Mr. Merrill) could not also be agreed to with perfect propriety. No man here, or elsewhere, will deny the position, that the theory of all representative governments, is, that there should be three distinct branches, each separate from, and independent of the other—that is to say, the legislature—the executive—and the judicial. In order to carry out that theory, to the full extent, the filling of the different departments, should be done by the people themselves; but as this has

been found to be impracticable, it has become necessary that this power of appointment to office, should be vested in some one or more of these branches.

With the exception of the state of Mississippi, the mode of filling judicial offices, has not been by the election of the people. It must, therefore, be done by the executive or legislative branches of the government—by one or both. That the power should be placed exclusively in either of these two branches, seems to be not exactly right; and we have decided, therefore, that a portion of the power shall be reposed in the executive, and a portion in the legislative branch; that is to say, by requiring the advice and consent of the senate upon the nominations of the governor. This is, probably, as near to the true, and proper, and safe ground, as it is possible for us to come. There is also a large class of other officers, whose appointments are to be provided for in some manner or other, under the constitution of Pennsylvania, and under the laws made in pursuance of its provisions. The question, then, is, how shall we appoint them? Shall we delegate to the legislative branch of the government, the power to create offices, as well as to direct the mode in which they shall be filled—or, to carry out the idea further, shall we give them the power to create offices, and to fill the offices which they have themselves created? I dissent entirely from the idea, that the people, in curtailing the power of the executive, wish to place that power in the hands of the legislature.

He apprehended it would be found that the people desired nothing, more or less, than the convention had already agreed to take from the executive, viz :

“The appointing of the justices of the peace”—which seemed to be generally called for—and the county officers, &c.

Further than this, he denied that the people ever wished to go. Where, he would ask, would those gentlemen vest the executive power which they argued the people were anxious to curtail—to take from the governor? Where should we vest it? Was this convention to give the legislature the power to create innumerable offices, for the purpose of filling them themselves? He believed that the people did not require us to do any such thing. He hoped that delegates would see the injustice of the demand. The appointing power had been divided between the governor and the senate, in regard to the judicial officers; and he apprehended that no better disposition could be made of it.

He would most cheerfully go with the gentleman from Union, (Mr. Merrill) in favor of the proposition he suggested, and say that unless an appointment is provided for in the constitution, all offices, hereafter to be created by the legislature, shall be filled in the manner they may direct, was he not apprehensive that they might create offices, in order to provide for themselves. He thought the safer course to pursue, was to let the legislature create such offices, as might hereafter be required, leaving the appointments to be made by the governor, by and with the advice and consent of the senate.

He (Mr. D.) did not profess to be a reformer himself, but he would put the question candidly to gentlemen, whether they thought the power of

filling offices had better be entrusted to the legislature, the governor and senate, or the people? Did they not believe it would be giving too much power—which was said by some gentlemen to have been so much abused—to the legislature? Did they not think, that to give them this power, would be tantamount to giving them the power to create offices for the purpose of filling them themselves?

He would ask the ultra reformers what there was in the amendment proposed by the delegate from Union, which was in accordance with the notions entertained by them? He (Mr. D.) maintained, that if it were to be adopted, its effect would be to compel the legislature to give up the power to the governor, or senate, or the people, to carry out by election.

He was decidedly of the opinion, that if such a provision were to be inserted in the constitution, it would greatly conduce to unbiased action on the part of the legislature, in the creation of offices. It would prevent the legislature from entertaining that selfish interest, they might be supposed to have, in wishing to provide for their friends. They would, then, act impartially in the creation of offices. The power of appointment, should, in the first instance, be vested in the governor, and one or the other branch of the legislature. The legislature would, consequently, act fairly, and impartially, and without any suspicion of being actuated by improper motives.

Not intending to occupy more of the time of the convention, he would conclude, by saying that he would vote for the amendment of the gentleman from Beaver, and if an opportunity should hereafter present itself, for that of the gentleman from Union.

Mr. CRAIG, of Washington, said, that before the question was taken, he wished to say a few words. He thought this was a subject that ought to be acted upon cautiously and deliberately. The convention were now at that state of the business, when the people looked to them to do something that would allay the excitement, which had, for many years pervaded the commonwealth, before the election of a governor, in reference to the patronage at the disposal of that officer. He admitted, that in making reform on this subject, there was great danger of running into extremes. But, let delegates reflect and reason a little, before they acted. Two propositions were now before the body, as to the residuary power—the appointing of officers, whose offices were not provided for by the constitution.

The amendment of the delegate from Beaver, provided that those officers should come before the governor—that he should have the appointment of them, by and with the advice and consent of the senate. The other proposition was—and he saw that there had been some action taken on the subject, on the fifth article—that the appointment of officers to offices, hereafter to be created, or not provided for by the present constitution, should remain with the legislature—leaving it optional with them to fill the offices, or to leave it to the governor and the senate, or the people to elect, if they choose.

Now, it seemed to him, that this would be a great convenience to the people of the commonwealth, as it left it completely within their power to

leave it to the legislature. And, he doubted not, but that the offices would be as well filled as by the governor. It had been contended, however, that great inconvenience would be experienced by the governor and senate, from having to act upon so many appointments.

The delegate from the city of Philadelphia, and others, had said there was danger of the legislature usurping too much authority in the matter, if left to them—that they might create offices, for the purpose of filling them themselves. What, he inquired, had been our experience on the subject? The experience of all time past, had shown that there was no danger in conferring this power on the governor. He conceived there was no foundation for any alarm, lest the legislature should usurp the power of filling the offices. Even if the amendment should be adopted, the legislature would confer the power on the governor. How did it happen? It had been the natural course of things, and would always be so. When a new governor came into power, it generally happened that there was a majority of his own party in the legislature. And, he would ask, if it was to be expected that the party coming into power, would not avail themselves of all the power and patronage they could? Surely they would. They grasped at all the power which was left by those who preceded them, because they had held the power over the offices which might have been created by them. The legislature having given the new governor the power, he returns it to the party, and appoints from those of his own party. Experience had proved that, for a number of years past, the various governors of Pennsylvania, have had more power than was ever contemplated by the constitution of 1790, when it went into operation. Many offices had since been created, which were not then in existence, nor thought of by the convention who framed the constitution of 1790.

As, for instance, the canal commissioners, the auctioneers, and many others. There was nothing in the constitution, to be sure, to prohibit the legislature from creating these offices. No one could doubt, but that the legislature had been continually running into the error, of conferring more and more power on the executive; and most probably, they would do so in time to come.

The delegate from Beaver, had referred to one objection, as he conceived it to be, in reference to the amendment, which was: That if the legislature should create new offices, and rise without putting officers into them, there would be no officers to fill them.

He, Mr. C., would ask if it was to be supposed that the legislature would create offices and not fill them, or devise means by which they should be filled? Such an idea was out of the question. It would occur to their minds, at once, knowing the governor possessed the power to fill the offices, that it was their duty to do so. He trusted that the gentleman would not let the amendment be an obstacle in his way. It coincided with his (Mr. C's.) view of the subject.

Mr. DICKEY, of Beaver, asked for the yeas and nays.

The question being then taken on agreeing to the amendment, it was decided in the negative—yeas 49, nays 68.

YEAS—Messrs. Baldwin, Barndollar, Barnitz, Biddle, Brown, of Lancaster, Carey, Chandler, of Chester, Chandler, of Philadelphia, Clapp, Clark, of Dauphin, Cline, Coates, Cope, Cox, Crum, Darlington, Denny, Dickey, Dickerson, Dunlop, Farrelly, Harris, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, Hopkin-

son, Jenks, Kerr, Konigmacher, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Royer, Russell, Scott, Serrill, Sill, Snively Thomas, Todd, Weidman, Young, Chambers, *President pro tem*—49.

NAME—Messrs. Agnew, Banks, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Clarke, of Beaver, Clarke, of Indiana, Cleavinger, Cochran, Craig, Crain, Crawford, Cummin, Curll, Darrah, Dillinger, Donagan, Donnell, Earle, Fleming, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hastings, Hayhurst, Helffenstein, High, Houpt, Hyde, Ingersoll, Keim, Kennedy, Kreba, Lyons, Magee, Mann, Martin, M'Cahen, Miller, Nevin, Overfield, Payne, Reigart, Read, Riter, Ritter, Rogers, Saeger, Scheetz, Sellers, Seltzer, Shellito, Smith, of Columbia, Smyth, of Centre, Sterigere, Stuckel, Sturdevant, Taggart, Weaver, White, Woodward—58.

MR. BELL, of Chester, moved to amend the section, as amended, by striking out the words, "of courts of record, unless otherwise provided for in this constitution," and inserting "whose appointment is not herein otherwise provided for, as well as all officers created by law, when by such law, the mode of appointment is not otherwise prescribed."

The **CHAIR** (Mr. Chambers) said, it was not in order to strike out what had been adopted in convention.

MR. READ, of Susquehanna, expressed his hope that the gentleman (Mr. Bell) would withdraw his amendment, inasmuch as a committee had been appointed to see that the amendments were put in as symmetrical a form as possible. The amendment seemed to be founded on the discovery, made by the delegate from Beaver, that an office might be created, and the legislature adjourn without first taking care that it was filled. Now, he (Mr. R.) would regard such an event as unlikely, as that a man would build a house, and forget to put doors and windows to it.

The **CHAIR** repeated the decision he had just made.

MR. STERIGERE, of Montgomery, said, that the provision adopted yesterday, provided only for vacancies in judicial offices. But, we had said that a great many offices should be filled by officers chosen by the people, or appointed by the governor and senate; and, as many of them might become vacant by resignation, death, or otherwise, it was only proper that they should be filled temporarily, so as to keep the wheels of government running until such time as they could be filled by an election, or an appointment of the governor, by and with the consent of the senate. He considered the language of the amendment offered by the gentleman from Chester, (Mr. Bell) imperfect in many particulars. One defect in it, he would mention, and that was, it provided for vacancies in judicial offices only, and no others. If any delegate coincided in opinion with him (Mr. S.) it would be as well to move a reconsideration of the amendment—

MR. BANKS, of Mifflin, asked if the gentleman from Montgomery was in order?

The **CHAIR** again pronounced his decision, in regard to the motion not being in order.

MR. BELL then said he would withdraw his motion to amend.

And, the convention, on motion of **MR. MARTIN**, of Philadelphia county, Adjourned till half past three o'clock.

TUESDAY AFTERNOON, JANUARY 16, 1838.

The convention having assembled at the usual hour, and there being no quorum present;

A motion was made by Mr. SMYTH, of Centre,

That there be a call of the convention.

Which motion was agreed to.

The secretary thereupon proceeded to call the names of the members; and a quorum having, in the mean time, been ascertained to be present,

On motion of Mr. MANN, of Montgomery, further proceedings on the call were suspended.

ORDERS OF THE DAY.

The convention resumed the second reading of the report of the committee, to whom was referred the second article of the constitution, as amended by the committee of the whole.

The pending question being on the motion of Mr. BELL,

To amend the said section as amended, by striking therefrom, in the fourth and fifth lines, the words "of courts of record, unless otherwise provided for in this constitution," and inserting in lieu thereof the following, viz: "whose appointment is not herein otherwise provided for, as well as all officers created by law, when by such law the mode of appointment is not otherwise prescribed."

Mr. BELL said, that before the question was taken on his amendment, he desired to say a very few words by way of explanation.

This is not intended, said Mr. B., as the gentleman from Susquehanna (Mr. Read) supposes, to supply a *casus omissus*, in relation to the power of appointment.

I will call the attention of the convention to the history of the amendment, when under consideration in committee of the whole at Harrisburg. It had been discussed for several days. Those who were in favor of reform, began to entertain serious apprehensions, that they would gain nothing in the shape of an amendment to this part of the constitution of 1790, and that the people of Pennsylvania, who had called so loud and long for the curtailment of the patronage of the executive, would be left just where they were, with all the power and patronage of that office, untouched.

With a view to stand against such a state of things, the gentleman from Susquehanna, (Mr. Read) acting from a feeling of despair, as to any reform amendments being made, introduced the amendment, providing that the governor "shall appoint a secretary of the commonwealth during

pleasure, and he shall nominate, and by and with the advice and consent of the senate, appoint all judicial officers of courts of record, unless otherwise provided for in this constitution," and which amendment was adopted in committee of the whole.

In introducing the amendment which I have had the honor to offer, it is no part of my purpose to introduce any new principle, but simply to preserve the symmetry and the harmony of the instrument.

It will be in the recollection of the members of this body, that some difficulty arose as to what article the restriction on the appointing power should be placed in ; some gentlemen insisting that the sixth article was the place, in which this matter ought to be regulated. So far as concerns the manner in which particular officers should be appointed, this view probably is correct—but the object of the section before us, has not reference to particular officers, but is intended to regulate and restrain the exercise of this power of appointment, in relation to the governor of the state.

The language is :

"He shall appoint a secretary of the commonwealth during pleasure, and he shall nominate, and by and with the advice and consent of the senate, appoint all judicial officers of courts of record, unless otherwise provided for in this constitution. He shall have power to fill all vacancies that may happen in such judicial offices during the recess of the senate, by granting commissions which shall expire at the end of their next session." And, then the section stops, so far as the governor is concerned. Now, my object is to go a step further, and to insert, as part of this article, that which at present belongs to the sixth article of the constitution ; that is to say, in addition to the power conferred upon the governor by the section before us, to appoint all judicial officers, whose appointment is not herein otherwise provided for.

I propose to invest him with the power, which must be vested somewhere or other, to appoint in the same manner, "all officers created by law, when by such law the mode of appointment is not otherwise prescribed."

My object is, to take that provision out of the sixth article, to which it does not belong, and to transfer it to that part of the constitution which treats of executive patronage. Why should we not do so ? We are endeavoring to prescribe, with as much accuracy as possible, the extent of the power which the executive shall possess, in regard to this particular subject.

In laying down this limit, we have said that he shall have power to appoint all judicial officers, whose appointments are not otherwise provided for ; and all that I propose, is to go one step further, and to say that, under the circumstances, he shall appoint all officers created by law, and the mode of whose appointment is not prescribed by law. And I ask gentlemen to say whether, upon reflection, this section is not the most proper place in which to insert such a provision ?

These are the reasons which have induced me to lay my amendment before the convention, and I have entered thus much into detail, because

am desirous that they should be properly understood. It will be seen, however, that there is another feature in the amendment I have offered, which differs in some degree from the report of the committee of the whole.

By the report of the committee of the whole, the governor is only to appoint all judicial officers of courts of record, whose appointments may not be otherwise provided for in the constitution. By the amendment I have offered, he is to appoint all judicial officers, unless provided for by this constitution or by law. For the future, the justices of the peace, are to be elected by the people.

The only judicial officers whom the governor can appoint, will be officers of courts of record. It is not necessary, therefore, to insert these words, because all judicial officers of the courts of Pennsylvania, are officers of courts of record.

And the question on the said amendment was then taken.

And on the question,

Will the convention agree to the amendment to the section as amended?

The yeas and nays were required by Mr. DARLINGTON and Mr. REIGART, and are as follows, viz:

YEAS—Messrs. Agnew, Baldwin, Barndollar, Barnitz, Bell, Biddle, Brown, of Lancaster, Carey, Chandler, of Chester, Chandler, of Philadelphia, Clapp, Clarke, of Dauphin, Cleavinger, Cline, Coates, Cope, Crain, Crum, Darlington, Denny, Dickey, Dickerson, Farrelly, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, Hopkinson, Jenks, Kerr, Konigmacher, Lyons, Maclay, M'Sherry, Merrill, Miller, Montgomery, Pollock, Porter, of Lancaster, Purviance, Ritter, Russell, Scott, Serrill, Snively, Sterigere, Thomas, Todd, Weidman, White, Chambers, *President* pro. tem,—51.

NAYS—Messrs. Banks, Barclay, Bedford, Bigelow, Brown, of Northampton, Brown, of Philadelphia, Clark, of Beaver, Clarke, of Indiana, Cochran, Cox, Craig, Crawford, Cummin, Curll, Darrah, Dillinger, Donagan, Donnell, Doran, Earle, Fleming, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Harris, Hastings, Hayhurst, High, Hout, Hyde, Kennedy, Krebs, Magee, Mann, Martin, M'Cahen, Merkel, Overfield, Payne, Reigart, Read, Riter, Saeger, Scheetz, Sellers, Seltzer, Schellito, Smith, of Columbia, Smyth, of Centre, Stickel, Taggart, Weaver, Woodward—58.

So the amendment was rejected.

A motion was made by Mr. COCHRAN,

To amend the said section as amended, by inserting after the word "appoint," in the third line, the words "an auditor general, a surveyor general, a secretary of the land office, and;" and by striking from the fourth and fifth lines, the words "unless otherwise provided for in the constitution."

Mr. C. in explanation of his views in offering this amendment, said that he was one among the number of the members of that body, who had received the instructions of his constituents, to vote in favor of a restriction of executive patronage.

But, said Mr. C., I do not wish to run into extremes. It certainly seems to me right, that those who are in daily communication with the

governor of the state, and who are, in effect, executive officers, should be appointed by the governor, with the advice and consent of the senate. I do not wish to take up the time of the convention, by entering into a long argument, for I know how precious their time is. I believe, however, that the mind of every delegate is made up, and that nothing which I can say will have any effect in changing his opinion.

The words "unless otherwise provided for in this constitution," I wish to have stricken out, because they appear to me to be unnecessary, and I think it is improper to have any thing which is unnecessary or superfluous in the instrument.

Mr. READ said, that he hoped the amendment of the gentleman from Lancaster, would not be agreed to. The reason which the gentleman has assigned for offering it, (said Mr. R.) is not in my estimation, sound. If I correctly understood the purport of his remarks, he stated as his reason for the amendment that the officers whose names he proposed to insert are executive officers. Let us inquire whether this is, or is not the fact. The state treasurer, we know, is disconnected with the executive magistrate, and his duty is to keep and pay out the public money.

What is the business of the auditor general? It is as much disconnected with the duties of the chief magistrate, as the office of the state treasurer. His duties are to examine accounts and to sanction the payment of all the public moneys—a matter in which the people are as much interested as they are in the duties of the state treasurer. So that the gentleman from Lancaster is under a mistake, in supposing that there is any sort of necessary connexion between the executive duties and the duties of the office of auditor general. The sanction of the latter is necessary to all payments, as I have said.

How is the fact in relation to the secretary of the land office, and the surveyor general? Their duties appertain to the sale of the public domain; a matter which, so far as I can see, has no connexion with executive duties. The argument of the gentleman from Lancaster, as it seems to me, is founded on the assumption that there is a necessary connexion between the duties of the several officers named in the amendment, and the duties of the office of chief magistrate. This is a decided error. A moment's reflection, I think, will convince the gentleman that no such connexion exists between the two, and, therefore, the foundation of his argument is gone: there is nothing to sanction it.

As to striking out the words "unless otherwise provided for in this constitution," it will be recollected that they were inserted after mature consideration, upon a supposed possibility that we might provide—and we have so provided in this constitution—for the appointment of some judicial officers. If new courts were created, the clause would come into operation. I think that the section is as perfect as it can be made.

Mr. DICKEY said, that he intended to vote in favor of the proposed amendment, because it would take that number of officers at least from the legislature, and would give them to that appointing power which had been established by the constitution, that was to say, to the governor and senate. And I think (said Mr. D.) if I may take as a criterion the votes which have heretofore been given, that the amendment will meet with the support of a majority of the convention. I know that the gentleman

from Susquehanna, (Mr. Read) was anxious that the officers named in the amendment should be elected by the legislature ; and he effected his object indirectly, and not by a direct motion which he submitted, when this subject was under discussion in committee of the whole, which motion was rejected by vote of sixty-one yeas to forty nays. I say I am not astonished that the gentleman should attempt to get indirectly that which he has not found it practicable to get directly. I will detain the convention a single moment while I read an abstract from page 142, of the minutes of the committee of the whole, the convention being then in committee of the whole on the report of the committee to whom had been referred the sixth article of the constitution.

The minutes say

"A motion was made by Mr. READ,

"To amend the report, by inserting a new section, to be called "section sixth," as follows, viz :

"SECTION 6. An auditor general and an attorney general, shall be elected by the joint vote of the members of both houses of the legislature, for the term of two years. Vacancies shall be filled by appointment of the governor, to continue until a successor shall be elected as aforesaid."

This amendment, continued Mr. D., was rejected, as I have said, by a vote of sixty-one to forty. But afterwards, in the consideration of that section, we find the object was attained by the adoption of the provision that "all officers whose election or appointment is not provided for in this constitution, shall be elected or appointed as shall be directed by law," and in this indirect manner, the gentleman has accomplished that which he could not accomplish directly.

I trust that the good sense of the convention will enable the members to see the propriety of adopting the amendment of the gentleman from Lancaster. I am decidedly in favor of it: since I think it is nothing more than reasonable that the appointment of these officers should rest with the governor, and not with the legislature.

Mr. READ said, that the gentleman from Beaver, (Mr. Dickey) was as hasty in his conclusions as he was incorrect in his premises. He is altogether mistaken, said Mr. R. in the supposition that the same object which I endeavoured to obtain in the first instance, was subsequently obtained in an indirect manner. The two propositions are entirely distinct. The amendment which I offered, and which was rejected by the vote of the committee of the whole, had for its object, to fix the appointment of these officers in the legislature. This, however, is not the effect of the provision as it stands in the sixth article—and which provides "that all officers whose election or appointment is not provided for in this constitution, shall be elected or appointed as shall be directed by law." It is entirely a different state of things. This provision leaves it in the power of the legislature, either to elect such officers themselves, or to leave their election to the people, or to direct the governor to elect them. There is scarcely a resemblance between the two propositions.

Mr. BROWN, of Philadelphia county, said, that the argument of the gentleman from Beaver, (Mr. Dickey) was applicable only to the first.

In the first instance, said Mr. B., I was in favor of giving the appointment of these officers to the governor. At that time, I was under the

impression that there was some chance, that the appointment of the judicial officers might be taken away from him; but finding that he is still to retain that power, and being anxious that a reduction should be made in the executive patronage, I shall vote to give these appointments to the legislature. I think, that as good and faithful officers will be elected by the legislature, as in any other way. The second clause of the section gives to the governor, the appointment of all judicial officers of the commonwealth.

I know that there are many gentleman in this body, who wish to give the election of associate judges to the people, and, therefore, as many as wish to effect that object will vote to strike *the other out*.

I think we had better retain the words "unless otherwise provided for in this constitution;" because we have provided for the election of the justices of the peace by the people, and we should be careful not to insert any thing, which would imply, that we had any idea of taking that election from them.

And the question on the amendment of Mr. COCHRAN, was then taken.

And on the question,

Will the convention agree, so to amend the section as amended?

The yeas and nays were required by Mr. DICKEY and Mr. FULLER, and are as follow, viz:

YEAS—Messrs. Agnew, Baldwin, Barndollar, Barnitz, Biddle, Brown, of Lancaster, Carey, Chandler, of Chester, Chandler, of Philadelphia, Clapp, Clarke, of Beaver, Clark, of Dauphin, Cline, Coates, Cochran, Cope, Cox, Craig, Crum, Darlington, Denny, Dickey, Dickerson, Farrelly, Harris, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Hopkinson, Jenks, Kerr, Konigsmacher, Maclay, M'Dowell, M^r. Sherry, Meredith, Merrill, Merkel, Montgomery, Pollock, Porter, of Lancaster, Reigart, Royer, Russell, Saeger, Scott, Seltzer, Serrill, Sill, Snively, Sturdevant, Thomas, Todd, Weidman, Young, Chambers, *President pro tem*—56.

NAYS—Messrs. Banks, Barclay, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Clarke, of Indiana, Cleavinger, Crain, Crawford, Cummin, Curl, Darrab, Dillinger, Donagan, Donnell, Doran, Earle, Fleming, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hastings, Hayhurst, Heister, High, Hout, Hyde, Kennedy, Krebs, Lyons, Magee, Mann, Martin, M'Cahen, Miller, Overfield, Payne, Purviance, Read, Riter, Ritter, Scheetz, Sellers, Shellito, Smith, of Columbia, Smyth, of Centre, Sterigere, Stickel, Taggart, Weaver, White, Woodward—59.

So the question was determined in the negative.

Mr. STERIGERE moved to strike from the fourth and fifth lines of the amendment, the words, "unless otherwise provided for in this constitution." Mr. S. would merely remark, that these words in this section were perfectly useless. So far from its being a perfect section, as we have been told, you will find that it is contradictory, and conflicts with some of the other provisions of the constitution. In the second section of the fifth article, there is a provision, that all courts of record shall be appointed in the manner provided for in that section. Then this clause, in this section, means nothing, and is utterly useless, and if the convention did not strike it out, he hoped the committee of revision would take it into consideration, and do so.

Mr. DARLINGTON hoped that these words might be struck out. We have already given all judicial appointments to the governor and senate.

Then, why this provision, "unless otherwise provided for in this constitution." It seemed to him, that it must be obvious to every man, that these words ought to be struck out.

Mr. READ, was also of opinion, that these words were unnecessary, and hoped they would be struck out.

Mr. EARLE said, it seemed to him that if these words were struck out, it would be deciding that the associate judges shall not be elected by the people. This was a matter which he had considerably at heart, and he hoped the words would be permitted to remain for the present. Then, if we do not make that provision, and the words are deemed to be unnecessary, they can be struck out by the committee of revision.

Mr. REIGART moved the previous question, which was seconded by eighteen members, and the main question was ordered to be put, without a division.

Mr. SMYTH, of Centre, called for the yeas and nays on the main question, which was on agreeing to the eighth section as amended, which were ordered, and were yeas 72 ; nays 40, as follow :

YEAS—Messrs. Agnew, Banks, Barclay, Barndollar, Bedford, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Carey, Clapp, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Cleavinger, Cline, Cox, Craig, Crain, Crawford, Cummin, Curll, Darrah, Dickey, Dickerson, Dillinger, Donnell, Doran, Earle, Fleming, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hastings, Hayhurst, High, Houp, Hyde, Kennedy Krebs, Lyons, Magee, Mann, Martin, M'Cahen, Merrill, Miller, Overfield, Payne, Purviance, Reigart, Read, Riter, Ritter, Saeger, Scheetz, Sellers, Seltzer, Shellito, Smith, of Columbia, Smyth, of Centre, Snively, Stickel, Sturdevant, Taggart, Weaver, White, Woodward, Young—72.

NAYS—Messrs. Baldwin, Barnitz, Biddle, Brown, of Lancaster, Chandler, of Chester, Chandler, of Philadelphia, Coates, Cochran, Cope, Crum, Darlington, Denny, Donagan, Farrelly, Forward, Harris, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, Hopkinson, Jenks, Kerr, Konigmacher, Maclay, M'Dowell, M'Sherry, Meredith, Merkel, Montgomery, Pollock, Porter, of Lancaster, Royer, Russell, Scott, Serrill, Sill, Thomas, Todd, Weidman, Chambers, *President pro tem*—40.

So the section as amended was adopted.

Mr. HIESTER, then moved to postpone the ninth section, for the purpose of introducing the following, to be called section nine.

"But no person shall be appointed to an office within any county, who shall not have been a citizen and inhabitant therein one year next before his appointment, if the county shall have been so long erected. But if it shall not have been so long erected, then within the limits of the county or counties out of which it shall have been taken. No member of congress from this state, or any person holding or exercising any office or appointment of trust or profit under the United States, shall at the same time hold or exercise any state or county office or appointment in this state, to which a salary or emolument is by law annexed."

Mr. HIESTER said, that this was, in a great measure, restoring the old section which had been struck out by the committee of the whole, with some few additions. It proposes in the first place, that no one shall be appointed to office, who shall not have been a resident in the county in which he shall have been appointed at least one year, and the second branch of the amendment, proposes that no member of congress, or other officers under the United States government, shall at the same time hold an office under the government of Pennsylvania. This he

considered to be but a proper restriction upon the appointing power, because, if such restriction was not made, we might have different officers of the general government, holding offices under our state government. He had made the motion at this time, because he considered that it belonged appropriately to this place, and, it would be better, in his opinion, to insert it here, than at the end of the article.

After a considerable discussion on the point of order, the CHAIR decided that, as the motion was to postpone for the purpose of submitting this proposition as an amendment, and which amendment could not be received, the Chair was of opinion that it would not be in order to postpone what, in the opinion of the Chair, was not in order.

A motion was made by Mr. STERIGERE,

To postpone the further consideration of the said section for the purpose of inserting the following new section, viz :

“SECT. 9. He shall also fill up vacancies in all offices, not of a judicial character, by appointment, which shall continue until the office shall be filled in the manner provided in this constitution, or in the law creating such office.”

Mr. S. said, he would not detain the convention by saying more than a few words in support of his amendment. It would be remembered, that he had made some observations this morning, with a view to shew that the eighth section was imperfect, for the reason that it did not give to the governor authority to fill up vacancies in all offices. As a motion to re-consider was not in order, he could only attain his object by offering his amendment as a new section to be called the ninth section. This duty of filling up vacant offices, was an executive duty, and would, therefore, come in very properly as a part of this article of the constitution.

The amendment differs from the provision of a similar tendency in the other section, as it provides that these vacancies shall be filled by appointment, to continue until the same shall be filled “in the manner provided in the constitution, or in the law creating such office.” The object of the amendment is simple, and I will not, therefore, delay the action of the convention by any further explanations.

And, the question was then taken and decided in the negative, without a division.

So the motion was rejected.

The ninth section of the said report, being under consideration in the words following, viz :

“SECT. 9. He shall have power to remit fines and forfeitures, and grant reprieves and pardons, except in cases of impeachment.”

A motion was made by Mr. PAYNE,

To amend the said section by inserting after the word “power,” in the first line, the words “on the recommendation of the judges before whom conviction shall have been had.”

And, the question having been taken,

The said amendment was rejected.

Mr. EARLE rose and said, that he thought a large portion of the people of the state of Pennsylvania, expected, at the hands of this convention, that some alteration should be made in reference to the subject-matter of the section now under discussion. There have been extensive complaints made, said Mr. E., of the abuse of the pardoning power. Those complaints have not been confined to any particular section of the state, but have extended through every part of it. I take it for granted that they have existed in the quarter from which the gentleman from M'Kean county (Mr. Payne) comes, or otherwise he would not have proposed the amendment which has this moment been rejected. At all events, there have been general complaints. I think that some restriction should be imposed in this particular, and I have risen with a view to offer an amendment, the character of which, I trust, will be found such as to secure the approbation of a majority of the convention.

There have also been other complaints made, in reference to some very numerous cases of crime, where capital punishment is imposed, but which cases may be attended with such palliating circumstances, as render the infliction of death repugnant to us—that there is no alternative, according to the existing law, between carrying the sentence of death into execution, and an actual pardon. We all know, that there were some cases in which it may be desirable that there should be a mitigation of punishment, and it is for such cases as these, that I am desirous also to make some provision.

Mr. FLEMING here rose and said, that he would prefer to have the proposed amendment of the gentleman from the county of Philadelphia, (Mr. Earle) before he (Mr. F.) listened to a speech upon its merits.

Mr. Earle resumed.

I am not going to make a speech, as the gentleman from Lycoming (Mr. Fleming) seems to suppose, and he need not, therefore, suffer himself to feel any alarm. If he had refrained from interrupting me a moment longer, he might have been spared the trouble of so doing by the reading of the amendment I propose to offer.

I was about to say, Mr. President, at the time the gentleman from Lycoming interrupted me, that the necessity of such a provision as last referred to, has been so strongly felt in our sister states, that it is a practice there to commute punishment by act of assembly.

I, therefore, move to amend the section by adding to the end thereof the following, viz :

“ And the legislature, on the recommendation of the governor, may mitigate punishments by commutation ; provided that no pardon, in any capital case, nor in any case of sentence to imprisonment for a longer term than two years, shall be granted, except with the advice and consent of the senate.”

It will be observed, continued Mr. E. that the legislature is not, by the terms of this amendment, to interfere in any way with the course of the law, unless the governor, being applied to, recommends the subject to their attention. He can respite the prisoner, if he thinks proper so to do, he can ask the legislature to commute the punishment ; if he does not think proper so to do, the legislature can have no power of interference. This

is the first part of the amendment, and I intend to ask that the question be taken upon it separately.

The second portion of the amendment allows the governor to exercise the pardoning power, in all minor offences, without the restraint of the senate; but in capital cases, or cases involving the punishment of imprisonment for a longer term of two years, the consent of the senate is required before the pardon can be granted. There can be no difficulty, I should apprehend, in the adoption of an amendment of this kind. In cases where the term of imprisonment is less than two years, it would be inconvenient to procure the assent of the senate, owing to the recess at the close of each session. But where the term is longer than two years, there can be no sort of difficulty in procuring the advice and consent of that body.

A division of the question was called for by Mr. M'CAHEN.

An on the question,

Will the convention agree to the first division, as follows, viz: "And the legislature, on the recommendation of the governor, may mitigate punishments by commutation?"

The yeas and nays were required by Mr. EARLE and Mr. GRENELL, and are follow, viz:

YEAS—Messrs. Bigelow, Bonham, Brown, of Northampton, Coates, Cummin, Donagan, Earle, Fuller, Gamble, Grenell, Magee, M'Cahen, Miller, Overfield, Payne, Ritter, Thomas, Young—18.

NAYS—Messrs. Agnew, Baldwin, Barclay, Barndollar, Barnitz, Bedford, Bell, Biddle, Brown, of Lancaster, Chandler, of Chester, Chandler, of Philadelphia, Clapp, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Cleavinger, Cline, Cochran, Cope, Cox, Crain, Crawford, Crum, Crull, Darlington, Denny, Dickey, Dickerson, Dillinger, Donnell, Doran, Dunlop, Farrelly, Fleming, Forward, Foulkrod, Fry, Gearhart, Gilmore, Hastings, Hayhurst, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Heister, High, Hopkinson, Hout, Hyde, Jenks, Keim, Kennedy, Kerr, Konigsmacher, Krebs, Lyons, Mann, Martin, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Pollock, Porter, of Lancaster, Purviance, Reigart, Read, Royer, Russell, Seager, Scheetz, Scott, Sellers, Seltzer, Serrill, Sheltz, Sill, Smith, of Columbia, Smyth, of Centre, Snively, Sterigere, Stickel, Sturdevant, Taggart, Todd, Weaver, Weidman, White, Woodward, Chambers, *President pro tem*—91.

So the first branch of the said amendment was rejected.

The question next recurred on the second branch of the amendment, which is in the following words:

"Provided, that no pardon in any capital case, nor in any case of sentence to imprisonment for a longer term than two years, shall be granted, except with the advice and consent of the senate?"

Mr. EARLE, asked for the yeas and nays.

Mr. DARLINGTON, of Chester, moved the previous question, and then withdrew the motion.

The question was then taken, and decided in the negative—yeas 15; nays 92.

YEAS—Messrs. Bigelow, Cope, Cummin, Donagan, Earle, Gamble, Grenell, Magee, Merrill, Merkel, Miller, Payne, Sterigere, Stickel, Thomas—15.

NAYS—Messrs. Agnew, Baldwin, Banks, Barclay, Barndollar, Barnitz, Bedford, Bell, Biddle, Bonham, Brown, of Lancaster, Carey, Chandler, of Chester, Chandler, of Philadelphia, Clapp, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana,

Cleavinger, Cline, Cochran, Cox, Crain, Crawford, Crum, Curll, Darlington, Darrah, Denny, Dickey, Dickerson, Dillinger, Donnell, Doran, Dunlop, Farrelly, Fleming, Foulkrod, Fry, Fuller, Gearhart, Gilmore, Hastings, Hayhurst, Hays, Henderson, of Allegheny, Henderson, of Dauphin, High, Hopkinson, Houpt, Hyde, Jenks, Keim, Kennedy, Kerr, Konigsmacher, Krebs, Lyons, Mann, Martin, M'Cahen, M'Dowell, M'Sherry, Meredith, Montgomery, Pollock, Porter, of Lancaster, Purviance, Reigart, Read, Ritter, Royer, Russell, Seagar, Scheetz, Scott, Sellers, Seltzer, Serrill, Shellito, Sill, Smith, of Columbia, Smyth, of Centre, Snively, Sturdevant, Taggart, Todd, Weidman, White, Woodward, Young, Chambers, *President pro tem*—92.

The ninth section, as reported, was then agreed to.

The following section was then considered, and no amendment being made thereto, it was also agreed to.

SECT. 10. He may require information in writing, from the officers in the executive department, on any subject relating to the duties of their respective offices.

The annexed section was then taken up for consideration :

SECT. 11. He shall, from time to time, give to the general assembly information of the state of the commonwealth, and recommend to their consideration such measures as he shall judge expedient.

Mr. EARLE moved to amend by adding the following, viz :

"It shall be his duty to return to the assembly with his objections, any bill, passed by the two houses, which in his opinion shall contain objects distinct in their nature or character."

Mr. EARLE said, that this amendment had been originally proposed by the gentleman from the county of Philadelphia, (Mr. Ingersoll) who was not now in his seat. At his suggestion, said Mr. E. I offer it in this place, and I hope that it will be adopted with very little opposition. Several members of the convention had heretofore offered amendments to the same effect, which had been discussed; but, an objection had been raised that such a provision, if inserted, would be set aside by the judiciary, as unconstitutional.

The amendment now proposed leaves to the governor the discretionary power to negative laws which are distinct in their character. Its only aim is to prevent the union, in one and the same bill, of those objects which are distinct and separate in their character. I have not heard a single individual of either party but who thought that there was an improper jumbling up by the legislature of separate subjects, and that the practice ought to be put an end to. In order to test the question, I hope the convention will favor me with the yeas and nays.

And, the question on the amendment was then taken.

And on the question,

Will the convention agree to the amendment ?

The yeas and nays were required by Mr. EARLE and Mr. GAMBLE, and are as follow, viz :

YEAS—Messrs. Cummin, Darrah, Dillinger, Doran, Earle, Gamble, Grenell, Ingersoll, Krebs, M'Cahen, Meredith, Merkel, Miller, Overfield, Read, Ritter, Russell, Sellers, Smyth, of Centre, Stickel, Sturdevant, Taggart—22.

NAYS—Messrs. Agnew, Baldwin, Barclay, Barndollar, Barnitz, Bell, Biddle, Bigelow, Bonham, Brown, of Lancaster, Brown, of Norhampton, Carey, Chandler, of Philadelphia, Clapp, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana,

Clevenger, Cline, Coates, Cochran, Cope, Cox, Craig, Crain, Crawford, Crum, Curll, Darlington, Denny, Dickey, Dickerson, Donagan, Donnell, Dunlop, Farrelly, Fleming, Forward, Foulkrod, Fry, Fuller, Gearhart, Gilmore, Harris, Hastings, Hayhurst, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, High, Hopkinson, Hought, Hyde, Jenks, Keim, Kennedy, Kerr, Konigsmacher, Lyons, MacLay, Magee, Mann, M'Sherry, Montgomery, Pollock, Porter, of Lancaster, Purviance, Reigart, Royer, Saeger, Scheetz, Scott, Seltzer, Serrill, Shellito, Sill, Smith, of Columbia, Snively, Sterigere, Thomas, Todd, Weaver, Weidman, White, Woodward, Young, Chambers, *President pro tem*—88.

So the question was determined in the negative.

A motion was made by Mr. M'SHERRY,

'That the convention do now adjourn.

Which was agreed to.

The convention then adjourned until half past nine o'clock to-morrow morning.

WEDNESDAY, JANUARY 17, 1838.

Mr. CAREY, of Bucks, presented a remonstrance from citizens of Bucks county, against any alteration in the constitution affecting the rights of citizenship and suffrage;

Which was laid on the table.

Mr. FARRELLY, of Crawford, presented a memorial from citizens of Berks county, praying that the convention will adjourn *sine die*;

Which was also laid on the table.

Mr. MACLAY, of Mifflin, presented a memorial from citizens of Mifflin county, praying that no change may be made in the existing constitution of the state, which would create distinctions in the rights and privileges of any of the citizens, founded merely upon their complexion;

Which was also laid on the table.

Mr. COATES, of Lancaster, presented four memorials of like import, one from each of the counties of Washington, Chester, Lancaster and Montgomery;

Which were also laid on the table.

Mr. EARLE, of Philadelphia county, presented a memorial of like import, from citizens of Philadelphia county;

Which was also laid on the table.

Mr. FOULKROD, of Philadelphia county, presented two memorials from citizens of Philadelphia county, praying that measures may be taken, effectually to prevent all amalgamation between the white and coloured population, in regard to the government of the state;

Which were also laid on the table.

Mr. SELLERS, of Montgomery, presented two memorials of like import, from citizens of Bucks county;

Which were also laid on the table.

A motion was made by Mr. FLEMING, of Lycoming, and read as follows, viz :

Resolved, That a committee, to consist of _____ members, be appointed to examine and inquire into the prices of printing, and to report such prices, as, in their opinion, ought to be allowed and paid for the several kinds of printing done and to be done for this convention.

The resolution was read a second time, and being under consideration,

Mr. FLEMING stated, that so far as his information extended, there had been no positive arrangement made in relation to prices of printing. As the close of our labors was now drawing near, it seemed proper that a committee should be raised on the subject.

Mr. DICKEY said there was no necessity for this. There was already a committee on printing in existence, and he would now move to refer the resolution to that committee.

Mr. FLEMING believed that the committee appointed had no power to act in this matter. If they possessed the necessary power, he was content. But this seemed to be a distinct duty, which should be assigned to some one. A large amount of printing had been already done for this body, and a large amount yet remained to be done. It was important that the prices should be fixed by some standard. He wished the prices to be known. He would prefer a separate committee, but he would not make any objection to the reference to the existing committee, if the convention should deem that the proper course.

Mr. DICKEY asked who could be better qualified to fix the prices, than practical printers? And of practical printers the existing committee was composed. There was a great deal of printing yet to be done, and he hoped that the convention would agree to the reference.

Mr. CURLL, of Armstrong, said the gentleman from Beaver was mistaken as to there being practical printers on this committee. On the committee on printing the English Debates, there was no practical printer. On the committee on the German Debates there was but one. He would prefer that a new committee should be raised, to be composed of practical printers. As to the printing of the Journals, the pay was regulated, but there had been as yet no arrangement made in reference to the printing of the Debates.

Mr. FORWARD, of Allegheny, said as there was one practical printer on the other committee, it was important that there should be some practical printers on this. He, therefore, moved to amend the motion of the gentleman from Beaver, by adding to it the words following—"and that there be two members added to that committee."

Mr. DICKEY accepted the amendment as a modification of his motion.

Mr. HAYHURST, of Columbia, suggested that a difficulty might arise from there being two committees already in existence, one on the English, and one on the German Debates.

The motion to refer the resolution, was then agreed to without a division.

Mr. COPE, from the committee on accounts, reported the following resolution, viz :

Resolved, That the President draw his warrant on the state treasurer, in favor of Joseph Black, late sergeant-at-arms of the senate, for the sum of two hundred and eighty-two dollars and fifty cents, in full for one hundred and thirteen days' services in the senate chamber, during the sessions of the convention at Harrisburg.

The resolution having been read a second time, and being under consideration,

Mr. GAMBLE, of Lycoming, moved to postpone the further consideration of this resolution, to the present.

The question of postponement was then put, and carried in the affirmative.

SECOND ARTICLE.

The convention resumed the second reading of the report of the committee on the second article of the constitution, as reported by the committee of the whole.

The question pending, was on the following section, which was agreed to, without amendment :

SECTION 11. He shall, from time to time, give to the general assembly information of the state of the commonwealth, and recommend to their consideration, such measures as he shall judge expedient.

The following sections were severally read, considered and agreed to, without amendment :

SECTION 12. He may, on extraordinary occasions, convene the general assembly ; and in case of disagreement between the two houses, with respect to the time of adjournment, adjourn them to such time as he shall think proper, not exceeding four months.

SECTION 13. He shall take care that the laws be faithfully executed.

SECTION 14. In case of the death or resignation of the governor, or his removal from office, the speaker of the senate shall exercise the office of governor, until another governor shall be duly qualified ; but in such case another governor shall be chosen at the next annual election of representatives, unless such death, resignation, or removal shall occur within three calendar months immediately preceding such next annual election, in which case a governor shall be chosen at the second succeeding annual election of representatives. And if the trial of a contested election shall continue longer than until the third Monday of January next ensuing the election of governor, the governor of the last year, or the speaker of the senate, who may be in the exercise of the executive authority, shall continue therein, until the determination of such contested election, and until a governor shall be duly qualified as aforesaid.

SECTION 15. The secretary of the commonwealth shall keep a fair register of all the official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes and vouchers relative thereto, before either branch of the legislature, and shall perform such other duties as shall be enjoined him by law.

The question was taken on agreeing to the report of the committee of the whole, and it was decided in the affirmative.

And, the sections, as thus amended, were agreed to.

The second article, as amended, was then ordered to be engrossed for a third reading, and referred to the committee appointed for that purpose.

THIRD ARTICLE.

The convention proceeded to the second reading of the report of the committee on the third article of the constitution, as reported by the committee of the whole.

The first section, which is as follows, was then read:

"SECTION 1. In elections by the citizens, every freeman of the age of twenty-one years, having resided in the state one year, and, if he had previously been a qualified elector of this state, six months, and within two years paid a state or county tax, which shall have been assessed at least ten days before the election, shall enjoy the rights of an elector. Provided that freemen, citizens of the United States, between the ages of twenty-one and twenty-two years, and having resided in this state one year before the election, shall be entitled to vote, although they shall not have paid taxes."

Mr. REIGART, of Lancaster, moved to amend, by inserting after the words "before the election," "and shall have resided in the district in which he shall offer to vote, at least ten days immediately preceding such election."

Mr. R. said that he had not offered the amendment, with a view to detain the convention unnecessarily, nor to inflict a speech upon it. He would state, in a few words, the reasons that had induced him to introduce the amendment. The committee of the whole had reported with regard to the first section of the third article, that, if a man be a qualified elector—not for two years—six months, and, within two years, paid a state or county tax, which shall have been assessed at least ten days before the election, shall enjoy the rights of an elector, &c.

Now, so far as concerned this part of the amendment, he was perfectly satisfied. But, it was quite obvious to him, that there should be a residence of ten days in the district, required of the man offering to vote. The adoption of this amendment then, would settle the difficulty as to residence. A man must have been a resident in the district ten days before he could vote, so that sufficient time would be allowed for him to be assessed. A residence was obtained by the payment of a tax. It was his opinion, that this provision could do no possible harm to any human being, and might do much good. For that reason, he had been induced to offer it.

Mr. WOODWARD, of Luzerne, said he rose for the purpose of saying to the gentleman from Lancaster, (Mr. Reigart) that if he would modify his amendment, by striking out the tax qualification, and substitute ten days' residence, he would vote for the amendment, but not otherwise. He knew that such a modification would make the amendment acceptable to many delegates. He much preferred the requirement of a residence, than he did a test of a man's ability to pay a tax. All money qualifica-

tions, in relation to the right of suffrage, ought to be expunged from the constitution. He made his appeal to the delegate from Lancaster so to modify.

Mr. REIGART said he regretted that he could not accept the modification.

Mr. WOODWARD remarked, that if this amendment should be negatived, as he hoped it would be, he would then move an amendment to strike out the tax qualification.

Mr. BROWN, of Philadelphia county, said he hoped the convention would not get into the same dilemma as it had done when sitting as a committee of the whole. It would be recollected, that the subject was discussed for two or three weeks, and that the proceedings occupied many pages of the Journal and of the Debates. The very same questions had been voted upon, and it was deliberately decided that this was about as far as the convention would go. He thought that if we again opened the broad question, it would be impossible to say when the discussion would end.

He trusted that delegates would be willing to compromise as to the qualifications necessary to give a man the right of voting. He himself, was opposed to the tax qualification, and also, to one years' residence in the state, but, nevertheless, he would give up his predilections, and vote for the amendment, because he believed it to be the general opinion of the convention, that they should be required. He trusted that no other change would be made, in reference to the subject of the right of voting, except so far as to confine that right, exclusively to white citizens, which seemed to be the general wish of the people of Pennsylvania.

Mr. CUMMIN, of Juniata, said he was opposed to the amendment of the delegate from Lancaster, (Mr. Reigart.) We all know that many mechanics and laborers were in the habit of removing from place to place. They might, for instance, live in this township to-day, and to-morrow, go a mile or a mile and a half off. So that, although a man might be a citizen of the state, and in the habit of voting, yet, if this amendment should be adopted, he might probably be deprived of that right. He most certainly would, if he did not happen to reside ten days in a district prior to the election.

Now, he would maintain, that no man should be deprived of the sacred and invaluable right of suffrage, should he remove to a district only one day before the commencement of an election. He regarded the amendment as nothing less than an abridgment of the right of suffrage. Yes, what he might call the strength of the nation—those men who would be more especially required to defend the country, in times of difficulty and danger, were to be, in point of fact, deprived of the elective franchise. Those gallant men, who would be called upon to cross the line, and who had crossed it, were not to be allowed to choose their own representatives and other public officers!

With regard to the tax qualification, it was a gross abomination, for a free and independent people to contemplate.

It was the greatest imposition ever practised upon an enlightened nation. He regarded the amendment of the gentleman from Lancaster, as an infringement on the freedom of the poor man. In his, Mr. C.'s,

humble opinion, no individual should be excluded from voting, merely, because he had not paid a state, county, or other tax. All men were equally free, and it was not the payment of a tax which made them so, but citizenship, whether they were born in this country, or naturalized. He would give an instance of the hardship which might have befallen an individual, had he, Mr. C., not interposed, on account of his not being a sufficient time in a township before the day of election. In his, Mr. C.'s, township a lad named Williams, a miller, came there to reside six months, and to work a mill for Thomas Gibson. He came only two days before the election for president and vice-president, and the day of election he went to give his vote; but the officers of the election refused to receive it. His parents, who lived in the township, came to consult him, Mr. C., and he said that their son was a citizen. He, Mr. C., then went to the officers and told them, that Williams had made an agreement to work for Gibson six months. And, being satisfied with what he, Mr. C., said, they allowed him to vote.

Now, if the amendment of the delegate from Lancaster, had then been in operation, that man would have been deprived of his vote. What, he desired to know, were gentlemen afraid of? Were they alarmed lest the poor should govern the nation? No danger was to be apprehended on that score. He trusted that no restriction would be imposed, of the kind proposed, and that the amendment would be voted down.

Mr. HESTER, of Lancaster, said he concurred with the gentleman from Philadelphia county, that it would be better to avoid going again into the subject at large, and agree to what had been done by the committee of the whole, although the provision was defective in the particular which his colleague, (M. Reigart) had pointed out. He agreed with his colleague, that there ought to be some definite period fixed, as constituting a residence. It was very much required, for there was a great difference of opinion as to what constituted a residence. In some places, sleeping a night; in others, a day's residence, or having some washing done, was a sufficient evidence of his right to vote. There was great vagueness and uncertainty, connected with the matter.

He repeated, that some definite period ought to be fixed, as it would have a tendency to prevent fraud, particularly, as regarded the city and county of Philadelphia. The amendment of his colleague, would settle the question, as to what constitutes a residence, and place men on the same footing. But he, Mr. H., was afraid if the amendment was entertained, the whole question would be opened anew. He would, therefore, vote against the amendment.

Mr. SMYTH, of Centre, said that we ought to guard the elective franchise, with as much caution as possible, yet, at the same time, we should take care not to disfranchise any of our citizens. He entertained the opinion, that the amendment of the delegate from Lancaster county, (Mr. Reigart) would do so among the poor, in all those sections of the country, where an extensive iron trade was carried on. He apprehended that this amendment would operate materially against them. It was well known that a great many hands were employed, and that they had continually to remove from one county to another, and from township to township. A citizen of one county might remove over to another, and this amendment would deprive him of the right of voting. He could unhesitatingly say,

that those men would be found, as ready to defend the interests of the country, when in danger, as any other class of men in it, and he trusted, that while we were anxious to guard the elective franchise from abuse, we would not cut off, from the exercise of this right, thousands of honest, industrious and patriotic men. He trusted, then, that no restriction, such as was proposed, would meet with the approbation of this body.

If he were to choose between this amendment, and that suggested by the gentleman from Luzerne, (Mr. Woodward) he would prefer the tax qualification, to the residence qualification. If a man should make his appearance, ten days before the election took place, he would be qualified. The assessors would take care, not to tax any that were not liable; and an individual would pay ten or twelve cents, to be entitled to vote. He was opposed to the amendment, and thought the report of the committee was as good as could be got.

Mr. FULLER, of Fayette, said that he was opposed to the amendment of the delegate from Lancaster. The subject of it, had been fully and amply discussed, on a former occasion, at Harrisburg, when it was contended, and he thought incontrovertibly, that the proposition now offered, if adopted, would have the effect of disfranchising a great number of our fellow citizens. This opinion had also been expressed by several gentlemen, during the present debate.

It would be recollected, that he had opposed the tax qualification. He was entirely opposed to it, but he would not renew his motion to strike it out, because, the convention had determined, by a considerable majority, when in committee of the whole, that it should be retained. The same amendment, in substance, at least, as that of the delegate from Lancaster, had been offered again and again, in different shapes, and rejected. The gentleman from Luzerne, declared, that if this amendment should be negatived, he would offer one to abolish the tax qualification. He, Mr. F., thought the gentleman would not succeed in accomplishing his object, as the day of adjournment was not very distant, and the convention would not be disposed to waste any more time in debating the subject. He entertained no doubt, but that the amendment of the delegate from Lancaster would be voted down. Of all the amendments that were called for, none was more necessary, than that the word "white" should be inserted.

Mr. CUMMIN said, he had risen to say a word or two, in reference to what had fallen from the gentleman on his right, (Mr. Hiester.) He had spoken of the danger that would result from allowing men to vote in the counties in which they had not resided, a requisite number of days. He, Mr. C., would ask, what interest or motive a man could have, that he would be at the trouble of removing into another county, merely for the purpose of giving his vote? He maintained, that the voter could gain nothing by doing so, and that he would vote the same way wherever he voted.

Mr. HIESTER explained, that the reference he had made, was especially for the city and county of Philadelphia, where a man might go to and fro.

Mr. CUMMIN, said the right of a man, who had removed into the city or county of Philadelphia to vote, was as good as if he had been born there. He, Mr. C., admired consistency. Gentlemen had said, that shin-plasters were issued for the benefit of the poor, and that they could not do

tracts of land for grazing, and other purposes—together with immense quantities of fine timber, iron, coal, lime-stone, and other valuable minerals.

That section of country is settled exclusively by emigrants, coming from the other states of the Union—for the most part, from the state of New York, and the eastern states, where the right of suffrage is much more easy of access than it is here. And it is a subject of general—indeed of universal complaint among these emigrants, that they are under the necessity of residing so long in the state, without the privilege of giving a vote, although they are compelled, at the same time, to pay taxes.

No emigrant comes into that region of country, with a view to reside six months, and then to take his departure for some other place. All who come there, come for the purpose of making it their place of residence. None but the most hardy, and enterprising, and courageous men, come there, and when they are once there, they have no disposition to leave, because they find that, by industry and frugality, they can maintain themselves, and their families well, and can also lay up that which will aid in their support, at a future time.

I say, that this is a matter of universal complaint among emigrants to that section of country, from the sister states of this Union; and it is to such as these, that we are mainly to look for the increase of our population.

Mr. President, I should be sorry to occupy, unnecessarily, one moment of the time of this convention, on this or any other question. I am sensible of the value of time to this body—anxious as we all are to bring our labors to a close. I am told also, that the subject was discussed many days in committee of the whole, at a time when I had not the honor of a seat here. Yet I could not let it pass, without expressing my opinion upon it, especially as I regard it as being of as much consequence as any other question connected with the amendment of the constitution. I should desire to have an opportunity of recording my vote in favor of a six months' residence, without any tax qualification—and unless such a provision should be adopted, I shall be under the necessity, as I have stated, of opposing the amendment of the gentleman from Lancaster. But if the qualification of one year can be stricken out, and that of six months inserted, and the tax qualification should be also stricken out, I would then give my vote in favor of that amendment.

I hope that the gentleman from Luzerne, (Mr. Woodward) will be induced so to modify the proposition which he has brought to the notice of the convention, as to embrace these views. If he will do so, I will vote for its adoption, even if my name should stand alone on the record. In such a case, I should like to see it in capitals.

Mr. BANKS said, that he had no objection to the amendment of the gentleman from Lancaster, provided that the tax qualification were stricken out from the section; but that, if such was not the case, he could not vote in favor of that amendment.

One of the great objects, said Mr. B., which I have in view, and which I am sincerely anxious to accomplish, is, to bring home the right of suffrage to every man's door. There should be no difference as to the exercise of this great privilege—the right of suffrage. Every man who will

take up arms, and who is willing, so long as he is able, to devote himself and all that he possesses, to the defence and welfare of his country, if his country should need his aid, ought to possess the right of casting a vote at the ballot box. I would allow every man in the commonwealth to enjoy this privilege, without clogging it with any money qualifications, and without looking, in any manner, to pecuniary considerations. If you will do this, you need have no fear as to the preservation of the liberties of our country. Our population is too intelligent—too anxious about their rights and liberties, and too resolutely bent on their preservation at every cost, to lose them by negligence or want of attention to what is going on at the ballot box. In my humble judgment, money should not weigh in the scale at all; and I have intimated this opinion in an amendment which I had the honor to offer, when this question was under discussion in committee of the whole. I will bring that amendment to the view of the convention, in the hope that the amendment of the gentleman from Lancaster, may be rejected, and that an opportunity may be thereby extended to me again, to try the fortune of my own original proposition. I read from page 99, of the minutes of the committee of the whole :

“ A motion was made by Mr. BANKS,

“ To amend the amendment as amended, by adding thereto the following, viz :

“ Provided also, That no citizen having resided in the state one year as aforesaid, and ten days thereof in the district where he offers to vote, shall be deprived of his vote, although he has not paid any tax or taxes.”

This amendment, continued Mr. B., was not successful at that time. If the gentleman from Lancaster, will modify his amendment, so that the payment of a tax, shall not be a requisite qualification to enable a man to vote, I will cheerfully give it my support. In its present form, however, I shall feel compelled to vote against it.

Mr. EARLE said, that it would not have escaped the recollection of the members of this body, that a proposition requiring a residence of ten days in the district where an individual might offer to vote, was adopted at one time by a vote of 59 yeas, against 48 nays; as appeared by the minutes of the committee of the whole, at pages 90-91.

At the time that vote was taken, I, for one, thought that a residence of ten days was too long, as an absolute qualification, and I, therefore, voted with forty-seven other gentlemen in the negative; although I was willing to go in favor of a residence of five, or seven days. Since my return from Harrisburg, I have conversed with my constituents upon this, in common with other matters having reference to the action of this convention, and I find that they are unanimously in favor of a provision in the constitution, requiring some distinct residence, with a view to prevent frauds at the polls.

It is true that such a provision may cut off the vote of an individual occasionally here and there; but, for the most part, the citizens of Pennsylvania, knowing beforehand that a provision of this nature exists in the constitution, will generally be careful to arrange their affairs in such a way as to be in the district a few days before the election takes place. The question then presents itself—and it is one worthy of all consideration—

whether, by adopting no constitutional restriction of this kind, you do not open the door for the introduction of more fraudulent voters, than you cut off honest voters by its adoption. In other words, will not the good which will result from the provision, far out-weigh any evil consequent upon it? I think it would, for I have reason to believe that elections have been carried in this fraudulent way. Still, however, I regret that the gentleman from Lancaster, has not thought proper to shorten the time of residence. I should wish that the period should be fixed at five or seven days, and I shall vote against the amendment as it stands at the present.

Mr. CHAUNCEY said, that he did not look upon this at all as a question of qualification, although it had been treated as such. Suppose the qualification (said Mr. C.) to be settled as it may, I take it for granted that we all agree on one point; that is to say, that when the question is once settled, it is the interest of all who are entitled to the right of suffrage, to guard it in the most effectual manner possible. I say, I suppose this to be a common interest with every man, who enjoys the right of suffrage, and that every man who seeks for the proper exercise of that right would, as a matter of course, do all that lay in his power to guard it against fraud. The gentleman from the county of Philadelphia, who has just taken his seat, (Mr. Earle) speaks the common sentiment of the people, of a large portion of this state, when he says that he believes elections have been carried in this fraudulent manner. I, too, am of that opinion. I believe that frauds have been committed in various parts of the state, and that elections have been carried by persons who did come within the provision of the constitution—by persons who ought not to have voted—and who, by the illegal exercise of that privilege, have invaded the rights of those who, under the constitution of the state, had a right to vote.

Now, the provision on which we are about to vote, is simply a provision to guard against fraud;—it is nothing more nor less. I am decidedly in favor of it. I do not concur with the gentleman from the county of Philadelphia, that a shorter time than that prescribed in the amendment of the gentleman from Lancaster, would answer the desired purpose. It might, however, do so. The simple object of the provision is to guard those who have the right of suffrage in the free and unadulterated exercise of that right. I am desirous to see a provision of this character inserted in the constitution; and I think that there should be no question in regard to it. I believe that it will be attended with very beneficial results in many parts of the state. I hope and trust that a vote will be given in favor of such an amendment to the constitution in this respect as shall, in those districts where there is some danger on this point, secure the lawful owner of the right of suffrage in its full and fair exercise, uninterrupted by those to whom the right does not properly belong.

Mr. MARTIN, of Philadelphia county, said that he was opposed to the adoption of this amendment, as he was to every proposition, the effect of which was to disfranchise the free citizens of this commonwealth, and to restrain them in the free exercise of the right of suffrage. But, (said Mr. M.) more especially am I opposed to the amendment of the gentleman from Lancaster—it will disfranchise only one class of society, without touching another. It is well known to every member of this convention, that the mechanical and laboring classes of society are those who have to make a frequent change of residence in order to suit their occupation.

Those are the men upon whom the effects of this provision, if inserted in the constitution are to fall, and who are to be disfranchised by it. If the constitution will point out clearly and explicitly—without the use of ambiguous language, which may admit of one construction, or may admit of another—what shall entitle a man to vote in the state of Pennsylvania, the legislature will have full power to prevent any improper exercise of the right of suffrage.

It might be safely left to the legislature to make such provisions as the necessity of the case might require, to protect this great privilege and to secure it to those who ought alone to enjoy it. But the constitution—the fundamental law of the land—the great basis of all our legislation—should not be such as, in its spirit or by its language, to disfranchise a journeyman mechanic—a labouring man—whose interests it was to move to different and distant parts of the state. I incline to the belief, therefore, that it is only necessary for the members of this body to turn their attention a little more closely to the subject, to enable them to see at once that this amendment, if adopted, will cut off many votes—and those votes almost, if not altogether, confined to the labouring classes of society. I hope it will not meet with approbation here. There is no sort of necessity for its adoption. If a man moves into a district the night before the election—if his removal be for the purpose of pursuing the regular business by which he lives—I say that, unless it can be shown that there was fraud, there is no reason why, by a constitutional enactment, we should deprive him of the right to vote. I repudiate the doctrine altogether, and I hope the majority of this body will go with me in voting this amendment down.

Mr. CHANDLER, of Philadelphia, said, I rise Mr. President, to say a few words on this question, from the experience which I have had in the history of our elections in the city and county of Philadelphia. I do not concur in the opinion expressed by the gentleman from the county of Philadelphia. (Mr. Martin) who has just taken his seat, that the amendment proposed will tend to disfranchise, in any considerable degree, the laboring classes of our state. It is not customary for workmen employed in the country, for instance, to change their residence, simply because they may change the square in which they are to work. This change of residence, to which the gentleman from the county has reference, has been, generally speaking, with a view to an approaching election. The line has been crossed, for the very purpose of carrying a vote from one district to another, and those of our citizens who do not change their place of residence with that intention, know perfectly well what are the requisite qualifications for voters; and if they have any regard for this privilege, they will scarcely forego it by a chance of changing from one side of a street to the other, as may be the case in the city and county of Philadelphia.

As to the remarks which have been made by another gentleman from a northern district, (Mr. Payne) it seems that he is opposed to this amendment on account of its tendency to keep back, rather than invite, population into that region of country. I believe all that he has said about the productions of the soil in that quarter of the state. He took occasion at the same time, to laud the benefits of the elective franchise. Sir, if that privilege is so much to be desired by all—if the right of citizenship may be

claimed as one of the dearest rights which the heart of a freeman can know, surely it is worth something. I remember to have read of a man in old times—a Roman citizen, speaking of the value of that privilege, “with a great price have I purchased this.” So it is here—and that it may not be over-leaped, we should know what are the gates and barriers, and that all those who climb up any other way would rob an honest voter and neutralize his vote.

A miserable pittance of a tax of twenty-five cents is all that is asked. It places the poor man who can pay it on the same high eminence as the millionaire—it enables him to say to the rich man at the polls, “sir, we are equal here. I have done as much to purchase this equality as you have, and am equally entitled to it.” It is not giving to the poor man a pauper’s right; it is giving to him the right than which the richest man in the land can possess none more valuable. I ask the members of this body to regard it in that light; I ask them to regard this privilege as something worth having—as something that is worth a price; and if it is in truth so desirable that no honest man should lose it, let it be so regarded, in order that no man who has not a proper feeling for his country shall claim it unqualifiedly. I ask gentlemen, in the decision of this question, to throw aside all party feelings and to discard all party considerations. Let us have no catch-words upon the subject. Let us say that this right shall be held at a certain price—but that it shall not be thrown to the dogs—that it shall not be given to a man who comes from a distance—whether he may have escaped from the states’ prison or not—to vote down the honest citizen by the weight, it may be, of that single vote. I know as well as any other gentleman on this floor what marchings and counter-marchings have taken place. I know how men have taken up their bed and walked—and how men who could scarcely rise have been suddenly raised, as it were by a miracle, to go across the line to vote at some neighboring election.

I do not intend to say that this has been done more in one part of the state than in the other. It has, however, been done; and all I desire is that this privilege should be so guarded as that it may not become the common right of rogues.

Mr. M’CAHEN, of Philadelphia county, said that he should not raise any objections to the amendment of the gentleman from Lancaster, if he thought that its adoption would have any tendency to render the right of suffrage more secure than it would be without it.

But, (said Mr. M’C.) I cannot bring myself to that conclusion. I believe, on the contrary, that instead of extending the right of suffrage to every man who is justly entitled to possess it, and of rendering it more secure to the possessor, the amendment is calculated only to limit and restrain its free and proper exercise. I, for one, look to this subject with no party views or considerations. The city and county of Philadelphia will probably present a better criterion by which to form a correct judgment on the propriety of this amendment, than any other portion of the state.

The gentleman from the city, who last addressed you, (Mr. Chandler) has said that he knows what marchings and counter-marchings had taken place. I do not know where the gentleman derives his information. I

have never known of such things. I must, however, confess that I have heard of them—and if ever it should be my lot to meet a man upon election ground who was voting either on the one side or the other, when he is not entitled to vote, I shall use every exertion in my power to put a stop to such illegal proceedings. In such a case, I should not suffer myself to be governed by any petty consideration of party hostility or party triumph.

Mr. CHANDLER, of Philadelphia, rose to explain. The gentleman from the county of Philadelphia, (Mr. M'Cahen) seemed to misapprehend the purport of his (Mr. C.) observations.

He (Mr. C) did not intend to charge that gentleman or any other person with knowing that such frauds as those he had alluded to, were committed at the polls.

Mr. M'CAHEN resumed. I say, Mr. President, that the effect of this amendment will be to limit and restrain the free exercise of the right of suffrage. I desire it to be extended to the utmost possible limit, consistent with a due regard to its security; but, at the same time, I am as desirous as any other member of this body to protect it against fraud and abuse. I think, however, that the measure proposed in the amendment of the gentleman from Lancaster is not one which is requisite to that end. I think that it would be a hard imposition to compel a man to reside ten days in any election district, before he can be entitled to the privilege of a vote. Suppose, for instance, that a man residing in the city of Philadelphia, should have his house destroyed by fire. He may take his family to reside in the county of Philadelphia. Would you say that, for this, he ought to be deprived of the right of suffrage? Surely, there can be no justice and no propriety in such a provision. Look to the dividing lines between the city and county of Philadelphia, north and south; see how closely they are connected, and then say whether it is just or proper that a man who is compelled to move from one side of the line to the other should be deprived of his right to vote. It ought not to be so, and I say, if frauds are committed, it is better that a fraudulent vote should be received, than that a rightful voter should be deprived of his privilege.

Although I do not believe that frauds have been committed to the extent which has been stated, still there may have been dishonest votes in some of our elections. There may have been dishonest judges or agents.

But again: Suppose this amendment is adopted, how will a judge be able to know whether an applicant to vote has complied with this requisition of the constitution—whether he has resided ten days in the district, or not, especially in a thickly settled place?

A man might just as well say that he had, as that he had not—so far as any means of detection are concerned. After all, much must depend on honor and manly principle—true republican principle; and much as I would guard the right of suffrage, I would not throw around more guards than exist at the present time. I concur entirely in the view which has been taken of the amendment by the gentleman from the county of Philadelphia, (Mr. Martin) that, if adopted, it would have an unequal influence on different classes of society.

These citizens would be as likely to be called upon in the hour of dan-

ger and war as any other citizens, and why not give them the privilege of exercising the right of suffrage—equally with all others. He hoped this proposition would be rejected now by the convention as it had been heretofore.

Mr. STERIGERE would suggest to the gentleman to leave the time blank, so that it might be filled by such number as the majority of the convention would agree upon.

Mr. REIGART could not see the necessity of doing this, because that would still be leaving the question open for discussion.

Mr. BIDDLE presumed that there was but one feeling pervading the body, with regard to the protection of the purity of the elective franchise. We are all disposed to prevent every fraud in elections which can be prevented and guarded against by prudence, and wise, and judicious restrictions; because upon the purity of this right depend the purity and permanence of our free institutions. When the people shall suspect that this right is misused or abused, so that the popular will is set aside by the introduction of fraudulent and illegal votes, confidence in our system of government will be shaken. Discontent will arise in the public mind—that will be succeeded by clamor, and clamor will be succeeded by anarchy, because when the people believe that their will has been overruled, we cannot expect that they will acquiesce in silence. He would say then, if it becomes us to guard against corruption in any quarter, it becomes us to guard against it in this sacred right, which is the foundation of the liberties of a free people.

We have heard to-day a doctrine promulgated on this floor by a gentleman from the county of Philadelphia, (Mr. M'Cahan,) calculated to do more injury to our system, and destroy confidence in the purity of elections than any other thing which has heretofore fallen from any member in this body. It is this—that it is better that you should have ten fraudulent votes taken at the polls, than that one individual legally entitled to vote should be excluded.

Why, this seemed to him (Mr. B.) to be a monstrous doctrine. What will be the effect of introducing ten fraudulent votes at an election? Why in the first place, if those votes are all on one side they may, in many cases, turn the election; and at best they disfranchise ten honest and legal voters—they destroy the votes of ten persons legally and constitutionally entitled to vote. Thus then, for the purpose of giving one legal voter the right to vote, the doctrine of the gentleman would destroy the votes of ten other legal voters. The introduction of a doctrine of this kind into our system would do more to beget fraud and corruption, than any thing we have yet heard of in this commonwealth. But he knew the gentleman intended nothing of this kind, when he laid down this doctrine, and it must have been an oversight in him. The result of it would be that your state officers might all be raised to power by illegal votes, and the right of the honest voters would be entirely destroyed.

Mr. M'CAHEN. The gentleman has misunderstood me, and made the case too strong. I believe fraud will occasionally exist, let you make what provision you will to guard against it, and I said I would rather have a fraudulent vote given at an election than that an honest and legal voter should be deprived of the right.

Mr. BIDDLE said, he had understood the gentleman differently, but he would receive his explanation.

Then the effect of the gentleman's doctrine would be this. If a fraudulent vote is to be admitted, rather than to deprive an honest voter of his right, you are admitting an honest man to vote, and allowing a fraudulent voter to destroy that vote. May you not as well tell a man that he shall not vote, as to allow him to vote, and then permit a fraudulent voter to step in with his vote and destroy that honest vote? This showed the immense importance of guarding against the introduction of fraudulent votes, and he now urged it for the purpose of preserving the integrity of our elections, and of preventing all suspicion in relation to them.

Has there been no suspicion with regard to fraud in our elections, in this and neighboring districts? Has not the press, on both sides, charged the other party with the introduction at the polls, not of one or two, but of many fraudulent votes. Then, what is the effect of such charges as these? The effect of them is to shake the confidence of the people, with regard to the purity of their elections.

The people feel insecure with regard to their rights, and when a decision is made at the polls, they entertain doubts as to whether that decision is the expression of the will of the majority of the people of the district. They have doubts as to whether those who are raised up to administer the laws to them, were placed in power by a legal and constitutional majority, and whenever this is the case, the people must feel insecure in their rights.

Those who resided in a particular district, were the persons who ought alone to be entitled to vote in that district, because they were the persons to be affected by the election in that district.

This provision then, requiring the voter to have resided at least ten days in a district before the election, will make it more difficult for persons disposed to give fraudulent votes, to accomplish their ends. After a person has resided in a district ten days, he will be known by some person, and frauds cannot be perpetrated as they now are, one voter giving in a vote at perhaps one or two wards in the city, in Southwark and the Northern Liberties on the same day.

At present, voters have a chance of voting in different wards, but if they are required to have fixed residences, as this amendment proposes, it will be in the power of some one at the polls, to point out where another resides, and if he votes in an improper place, he may be punished for his fraud and crime.

In support of the purity of those institutions which we all so much prized, it did appear to him that it was very important that some such amendment as this, ought to be adopted. It certainly recommended itself to the favorable consideration of the convention, on account of the great tendency which it would have to protect the purity of our elections; on the other hand, what injustice would be done by it?

If an individual moved his residence within ten days of an election, he was aware of what he was doing, and he would deprive himself of the right of voting with a full knowledge of what he was doing. It therefore, could not be looked upon as a peculiar hardship, when he lost his vote in this way, because that he did it of his own accord.

But it was said, that it would operate onerously upon our mechanics, and be more of a hardship to them than any body else. He (Mr. B.) however, did not believe it would operate in this way, with reference to this class of society.

He considered this body of men, as worthy of all praise and commendation. Who are the wealthy men of our community? Those very men who by the steady pursuit of industry, have gradually accumulated property until they have become the wealthy and most respectable of our land, while the sons of the rich, after wasting the substance which their fathers earned, became the indigent and almost useless citizens of our country.

Mr. B. knew the industrious character of our mechanics, and knew that they were not the persons who would be moving about daily. He thought our country friends would tell us, that the working-classes of this country, were not a roving population, who remained but a short time in one place. He took it, that no gentleman need vote against the pending amendment on this account.

It seemed to him, that this amendment was well calculated to protect the purity of the elective franchise, which was of the utmost importance to the people of our state—he should therefore, most cheerfully give it his vote.

Mr. CURLL considered that this whole thing had been maturely considered before, when some eight or ten days had been spent solely with reference to the city and county of Philadelphia. He trusted, therefore, that we were not going to have another discussion, with reference alone to this part of the state.

If he recollected rightly, several days had been proposed, in committee, as being a suitable time for residence in a district. Three days, five days, ten days, and twenty days, had been proposed, and the vote taken on each, and all rejected.

Then where was the necessity of bringing up this question at this late period, when our labors are drawing very nearly to a close. We have now but about fourteen days to finish the important business which we have been called together to act upon, and he hoped we would not have those amendments, which we have made in committee of the whole, embarrassed in this way.

He (Mr. C.) was opposed to this amendment at Harrisburg, and he was opposed to it here. He considered that a citizen's right to vote, depended upon the payment of his tax, and he had no idea of depriving those who had paid their tax, of a vote, upon any such grounds as those which had been advanced in support of this amendment. It appeared to him, that if election officers performed their duty, there would be but little necessity for this amendment in any district in the state. This proposition, he believed, had been introduced solely with reference to the city and county of Philadelphia, and he took it that too much of the time of the body, had been wasted upon it. He trusted therefore, that the convention would at once agree to reject the amendment.

Mr. M'CAHEN was much pleased to hear the favorable notice, which had been taken of the working-men, by the gentleman from the city of Philadelphia, but at the same time he must say, that he took exception to the manner in which the gentleman had expressed his sentiments.

The gentleman had said, that the hardy mechanic by his industry, raised himself to fortune and respectability, whilst the sons of the wealthy, by idleness, wasted the substance their fathers had left them and become worthless creatures. maintaining the principle, that wealth conferred respectability, and poverty worthlessness.

Mr. BIDDLE did not desire what he said, to be construed in this way, as it was not his intention that his language should convey this idea. He had said, that the mechanic by his industry, had become the wealthy and respectable of your land: but he did not intend to convey any other idea, with respect to the sons of the wealthy, than that by their habits they had become less valuable as citizens.

Mr. M'CAHEN would accept the explanation of the gentleman from the city, although he must say that he understood the gentleman differently. He would, however, drop this matter and proceed, and endeavor to show the gentleman in a satisfactory manner, that this amendment would operate unequally upon the different classes in society.

The gentleman says, that it would not be difficult for persons to maintain a residence, and to bring evidence of that residence to the polls. But the gentleman must recollect, that men who were holders of property, were not required to bring any evidence to the polls of residence, while the poor man would be compelled to come to the polls, with a witness to vouch for him. Was this not creating distinctions between the different classes? He thought it was.

He was in favor of protecting the purity of elections, by the severest penalties—he would make it an infamous crime, to be punished in the severest manner, to give an illegal vote. He would go almost any length in providing punishment for fraudulent voters, but he never would consent to any provision which would make distinctions between the voters.

He would agree to have judges of the election of different parties, or he would agree to any provision of this description, which would guard the purity of election, and which would operate equally; but he would not give his vote to a provision which would require a poor man to bring a witness along with him to the polls.

The gentleman from the city, has said, that the mechanics do not move about from one district to another. In this, however, the gentleman was entirely mistaken, for there was no class of society which moved about more, unless it was perhaps some few of them, who have been fortunate enough to erect a building as a permanent residence for themselves. There were, to be sure, many of them who had done this, but the proportion who had not, and who were very much unsettled as to residence, was more than as ten to one. They are compelled to move from one district to another, and from one town to another, as business changes, in search of employment.

Well, would you deprive these men of the privilege of exercising the right of suffrage, because they are compelled to move into another election district, in order to obtain the means of supporting and sustain themselves and their families? He trusted that no man would be deprived of this most sacred right, on pretences so slender.

He hoped that the majority of this convention would not, by their votes, create a greater distinction between voters, than that which already exists, because it would be an extremely hard case for the man who had paid his tax regularly, but who had been compelled to change his residence a short time before the election, to be deprived of his vote in consequence of the change.

The gentleman from the city had appealed to his friends from the county, in relation to the change of residence of the mechanics and workingmen. He thought, however, that the gentleman had appealed to witnesses, who were likely to come up against him, for those persons well knew how liable the workingmen are to change their residence, although they may be the most correct and upright citizens. Would you then deprive this meritorious class of citizens, of the right of suffrage in this way?

While we can by our laws, guard the right of suffrage, he hoped we would never prevent a man, who was justly entitled to vote, from coming to the polls, if he had only resided one day in the district where he was about to vote.

He hoped the amendment of the gentleman from Lancaster, might be rejected by the convention.

Mr. REIGART then modified his amendment, so as to leave the number of days blank.

Mr. BROWN, of the county of Philadelphia, said we had had all this matter up in committee of the whole, and this section was broken down by the structure which was piled upon it. He hoped gentlemen were not now disposed to pursue the same course, and erect a fabric which must fall of its own weight, as did that which was built up at Harrisburg by the committee of the whole last summer. It might be on this occasion, that we can find a majority in favor of some half dozen different amendments to this section; but the question is, whether a majority will be found to sustain the section, with all these heterogeneous and incongruous amendments connected with it. We have found that they would not do it on a former occasion, and he thought this was a strong reason why we should now stick to the amendment of the committee of the whole.

Who is it, that it is intended this ten days' residence should operate upon? It is intended only to operate upon those whose residences are not fixed. Upon the workingmen and mechanics of the country, who are moving from one place to another continually, and, by this, provision, if it is adopted, they will be deprived of their rights.

As to the commission of fraud in elections, he did not look upon this amendment as calculated to prevent it, because, if a person is desirous of committing fraud, he can move into a district ten days before an election, and commit the fraud just as well with this amendment as without it. Besides, this provision may lead to difficulties between the voters and the election officers.

A young man may leave the place where he has been engaged, and may, perhaps, come into this district where his parents reside, and reside with them. When he presented himself at the polls, he may be told by the election officers that he has not been a resident in the district ten days, but that he was a mere transient boarder in it. Well, if he returns to

the district where he formerly resided, he may be told there that he is not a resident of that district, having left it ten days before, and by this means he may be deprived of his vote in either district.

By this amendment, you place it entirely in the hands of the judges, to deprive citizens of the sacred right of suffrage, and by your provision, you do not prevent it. It is, to say the least of it, nothing more or less, than a restriction upon the elective franchise, and he hoped that this convention, instead of placing restrictions upon the elective franchise, would endeavor to make it more free and general.

He was entirely opposed to this amendment, and to the system pursued of building up amendments on this section. It was this grain of wheat which broke the camel's back before, and he hoped it would not do the same thing again.

Mr. BIDDLE then referred to page ninety of the journal, for the purpose of showing how Mr. BROWN had there voted on this question, when it was before the convention last summer.

Mr. BROWN would ask the gentleman, to refer to page 101, and see how he had voted there upon it.

Mr. DARLINGTON said, the gentleman from the county of Philadelphia, had been attempting to alarm the convention, by telling gentlemen that it was this last grain of wheat which had broken the camel's back. Now, every man who would refer his recollections back to that time, must know that this amendment was finally lost, 55 to 54, and that it was not lost on account of this grain of wheat, but in consequence of some other objectionable features.

Mr. BROWN. I say it was lost because of this last grain of wheat. It was lost by one vote only, and I voted against it, merely, because it had this amendment connected with it.

Mr. DARLINGTON said, that this was no evidence that it was voted down on this account. There were other gentlemen's votes to be operated upon, as well as that of the gentleman from the county of Philadelphia, and he now said that it was fair to presume, that it was voted down as much on account of the objectionable feature, in relation to corporation taxes, as on any other account.

By a reference to page eighty-six, of the committee of the whole, it will be seen that the gentleman from Columbia (Mr. Hayhurst) introduced an amendment, providing that all those who had paid a school, poor, or municipal corporation tax, should be entitled to vote. That amendment was adopted, and then the provision in relation to ten days' residence, was introduced, and in consequence of so many objectionable provisions in the section, it was voted down, 55 to 54. He would take the occasion to say, that he knew two or three gentlemen who were absent from their seats at that time, who would have voted for this provision.

He trusted therefore, as we had once agreed to this amendment, that we would still adhere to it, and he had no doubt a majority of the convention would concur in the section if the amendment was agreed to.

Mr. EARLE said, that his colleague had stated that those in favor of restricting the right of suffrage, would go for the amendment at this time, and those opposed to a restriction of that right, would vote against it.

Now, he (Mr. E.) did not want to be classed among those, who were in favor of restricting the right of suffrage, as he thought he should be in favor of extending it farther than it was at present extended, and farther than any other delegate had said he would go, but while he would extend the right so far that taxation and representation in all cases would go together to the fullest extent, so that it should be extended to every man who was taxed upon his dress, or upon his food, but at the same time that he would do this, he would be willing to go for such restrictions as would prevent fraud and corruption in our elections.

Mr. REICART then proposed to fill the blank with seven days.

Mr. BIDDLE proposed ten days ; and,

Mr. FORWARD proposed fifteen days.

Mr. FORWARD wished to say a word to those who were opposed to any restrictions, in regard to this matter of residence. He felt certain that some limitation in regard to residence ought to be made, and fifteen days seemed to him to be an appropriate length of time. All have agreed that frauds have been committed in the exercise of the right of suffrage, and it appeared to him that it must be admitted on all hands, that some such restriction as this ought to be provided, to preserve the purity of your elections, and prevent that greatest of all evils, corruption therein.

Whenever the people see your elections carried by fraud, then will there be an end of all confidence, and in a short time will there be an end of free government. A few corrupt votes may make the majority in your whole state government—aye, sir, ten corrupt votes may turn the scales in your senate, your house of representatives, and your executive government. Ten corrupt votes, on one side, may give a majority in the senate—a majority in the house, and a majority for the governor of the state. Then, if there is this chance of fraud, will the people be content?—if there is a certainty of fraud in your elections, will the people submit to it? It seemed to him that they would not, and that the best and the surest and the safest way of preserving peace and order and content in the public mind on this subject, was to place such restrictions upon this right, as would ensure the purity of your elections.

He could not see any hardship in the amendment proposed, because, if a man made himself incapable to vote, it was his own act, and he did it knowingly. It might be, that, in some few cases, it would operate onerously, but, on the other hand, if it was not adopted, honest votes might have their votes destroyed, by the exercise of the right, by illegal suffrages.

Some have objected to the amendment, because it might be productive of inconvenience. This, however, ought not to operate against it, because every general rule must, in some cases, produce inconvenience. In the very nature of things it must be so. Go into your courts of justice, and how often do you find inconvenience, because a general rule never can be so perfect, as entirely to do away with inconvenience.

In fact, there is no general rule without some hardship, but it was infinitely better that the honest voter should be secure in his vote, when it was given, than that an illegal voter should have the opportunity of nullifying his suffrage.

Secure the honest voter in his suffrage when it is cast, and you will secure content and order; but, if you do not do this, discontent will prevail in the public mind, and anarchy and confusion may follow.

Why do you not extend the election from day to day? Why do you not extend it from month to month? Why do you say that a man shall forego this, or that he shall bear that sacrifice? It may be inconvenient for him—he may be sick, and cannot go, unless the weather be fair. He cannot go out on a wet day. Then, why should he lose his right of suffrage, because he is under a visitation of providence? There is no allowance—no provision made for a contingency of that kind. He must go out and peril his life. Why is this? Because it is a general rule, and inconveniences will be suffered under any general rule that can be formed. You say that a man must go away for ten or fifteen days, although it is an inconvenience to him, and he must lose his right of suffrage in consequence.

Suppose a man to have business, which demands his immediate attendance at the place where it is to be transacted, why he cannot go without making this great sacrifice. Here, for instance, the election is to take place on one day, and if he does not attend, he is to lose his right. Now, what is the object of the amendment? To prevent fraud. And, will any man stand up and say, you must not put restrictions on me for the sake of preserving the right of any party, or even of confidence in the government itself? He says, I intend to remove fifteen days before the election, you must not restrict me. Well, he may do so; no restriction is laid upon him; we merely adopt a general rule. The general rule and the general suffrage are in question. How are they to be preserved? That is the simple and important question; for, without government there is anarchy. We must, then, secure the right of suffrage, and preserve confidence in the government.

This provision, then, must be in your constitution, or you have no government. Is any man prepared to say that he cares not whether the suffrage is corrupt, or that there are any guards against fraud? Is any man willing to support that which will prevent fraud and corruption? Some believe that a residence of fifteen days before the election will prevent it. How many individuals will remove in that time? Were there a dozen in the state? And will gentlemen tread down the barriers against corruption and fraud, for the accommodation of a few individuals? I trust not.

Mr. FLEMING, of Lycoming, said that he, himself, did not put much faith in the proposed alteration of the committee of the whole. He could not regard it, as some gentlemen seemed to do, as a panacea for all the evils complained of, and therefore he should not vote for it.

The proposition involved a mere question of residence—a mere alteration in that respect. From what had fallen from gentlemen, we might be led to suppose that a change in the law of domicile was actually going to prove the salvation of the country! It was now contemplated so to alter the law, which at present obliged a man to prove that he is a citizen of the state, and has a right to vote—that he must prove he has lived in some particular district for the last fifteen days prior to the election, at which he purposes to vote.

He had particularly examined all the arguments which had been brought forward in favor of the amendment, but they had totally failed to convince his mind, that it would have the beneficial effect which was supposed. The impression which he entertained was, that it would not prevent fraudulent votes from being given, unless other evidence than that of the voter was required.

He would say, however, that if the amendment was founded upon the supposition, that the officers of the election were incompetent and unable to make the necessary inquiries, with regard to the right of every individual to vote, it would be, perhaps, advisable to insert it. But, if there existed no reason of that sort, why not as well make the limitation three months as fifteen days? Nay, indeed, why not even make it twelve months? What, he would inquire, was the evidence required of the right of suffrage, by the committee of the whole? I find sir, (said Mr. F.) by referring to the first section of the third article, as reported by the committee, that you have there provided that :

“In elections by the citizens, every freeman of the age of twenty-one years, having resided in the state one year, and if he had previously been a qualified elector of this state, six months, and within two years paid a state or county tax, which shall have been assessed at least ten days before the election, shall enjoy the rights of an elector : *Provided*, That freemen, citizens of the United States, between the ages of twenty-one and twenty-two years, and having resided in this state one year before the election, shall be entitled to vote, although they shall not have paid taxes.”

Now, citizenship is the first question : and what was the duty of a judge? It was to inquire and ascertain, whether the individual claiming the right to vote, is a citizen, according to the constitution of the state. He was to be asked whether he was twenty-one years of age, and whether, also, he has resided one year in the state of Pennsylvania. The fact was, likewise, to be ascertained, whether he has resided six months in one place, and paid a county tax a certain number of days before the election. As to the necessity of carrying out any further details, in the constitution, in reference to giving a man the right to vote, he felt bound to declare that he had not heard any thing like a sufficient reason urged to induce him to do so. The legislature would be at liberty to arrange and settle all preliminary matters, and they could say what evidence it would be proper to obtain before permitting a man to vote. They would provide as to the number of judges, inspectors, and other officers, whose services might be required.

Arguing upon the presumption, then, that the officers of the election would do their duty honestly and faithfully, he apprehended that we had already a sufficient number of pre-requisites to the right of suffrage, and that no necessity existed for increasing them, as had been maintained by some gentleman, as it would be requisite to ascertain whether or not those negroes holding property, had not claims standing against it, &c. because if that were the case, they would not be allowed to vote.

The legislature would have nothing to do, if this convention were to go on at the rate they had been, putting in the constitution a number of unnecessary and trifling provisions, as that a man should be compelled to live three months, or seven days in a district before being allowed to vote.

He repeated, that if we were to incorporate in the constitution, a number of similar provisions, in reference to the right of suffrage—which, however, was a very important matter, there would be nothing left for the legislature to do. As he had already said, it was the peculiar province of the legislature to carry out the provisions, to which he had alluded, in such manner as to enable the officers of the election to examine every man's right to vote at the polls. That a certain number of days' residence would entitle a man to vote, when applied to our own citizens of Pennsylvania, as in this provision had not struck him as at all necessary. There was no accompanying provision, connected with that in relation to residence, stating where he should vote.

The gentleman from Allegheny, (Mr. Forward) he understood to say, that it was better that a man should change his residence than be deprived of the right to vote.

His, Mr. Fleming's, opinion was, that no provision of that character ought to be inserted in the constitution, and his belief was, that the amendments already agreed upon, were amply sufficient to enable the legislature to obtain the evidence, requisite to entitle a man to avail himself of the elective franchise, and if it is found, hereafter, that frauds are practised, it is in the power of the legislature to establish a system of examination, so as to require the evidence of disinterested witnesses, and in this it does not differ from any other personal or political right. You provide in the constitution certain pre-requisites to the right of suffrage, and it ought to be left to the legislature to settle the manner of arriving at the truth or falsity of the allegations, made by those who claim the right to vote, and it is as much out of place to carry out such details here, as it would be to prescribe the manner of trying causes in your courts of record.

The officers of an election are constituted a court, to discharge a specific duty, and the legislature may provide that the oath of the person applying to vote, shall not be received in such court, but, that if any of the facts require proofs, he shall produce indifferent witnesses.

Then, sir, as it may become necessary to establish a different course of examination, I ask of the convention, to consider what it is doing, and not to carry out so many items of detail as to prevent the interference of the legislature, when it may become necessary.

Mr. REIGART modified the amendment by inserting the words "ten days."

Mr. DUNLOP, of Franklin, observed that the little that might be said on the subject, could be as well said now as at any other time. If the amendment of the delegate from Lancaster should be voted down, he hoped that some gentleman, and if no one else did, he would move the same amendment with a blank in it. He thought there could be no difference of opinion among the members of this body, with respect to the necessity of requiring a residence. The only question was how long the residence should be? The constitution of the commonwealth of Pennsylvania did not state that there must be a residence in any particular district.

He would, however, call the attention of the convention to the fact, that the act of assembly, passed in 1799, provides that there shall be a

residence in the district, before a man can be permitted to vote. Now, it might be a question of some doubt, whether an act of assembly could enlarge or restrict the qualifications of electors. But, no matter whether the law did or did not make this requirement, and, although this had long been held to be the law of the land, still it was a question of considerable doubt, as he had just observed, whether a man was bound to reside in the district in which he voted.

He would ask, if there was a gentleman present, who did not desire, that the individual should reside in the district where he voted? He thought there was not a man within the sound of his voice, but what would respond to his inquiry, in the affirmative. There being no constitutional provision on the subject, the people of Pennsylvania acted solely under the law of 1799.

And, he would again say it might be a question whether the law was binding, inasmuch as it could not, in his, Mr. D.'s, opinion, at least, enlarge or restrict the qualifications of an elector. While, then, this convention was amending the constitution, and when, after the experience of half a century had shown the necessity of requiring a residence of the voter—a provision ought to be inserted, that no man should be permitted to vote, unless he had lived a certain number of days in the district. Every body would acknowledge the right of suffrage to be an important right, and one which ought to be well guarded. No man would venture to dispute it—all agreed that it was.

The only question was, whether the judges and inspectors of elections had a right to infringe the present law? It was unnecessary for him to enter into a history of the elections, that had taken place in the city and county of Philadelphia, and other places, to prove that impositions had been practised. They were notorious enough. A gentleman told him that he had seen a poll list, on which, were the names of two individuals, who had voted together in every ward but one. This was in the city of Baltimore. They had no particular place of residence, and therefore, could say they lived in all those wards. The law of that city does not restrict a man from changing his domicile as often as he pleases, in reference to voting, for no particular time was required to give him the right of voting in any district.

Could there be any doubt that under the operation of such a law, many unfair practises were obtained? He thought that these facts were sufficient to convince any one of the necessity of designating a particular time, as, giving a man a residence, and entitling him to vote. There could be no doubt that great frauds were practised both in the city and county of Philadelphia. In the city of Pittsburg, men had been apprehended, charged with having voted where they had no right to vote.

With regard to Baltimore, his friend had informed him that he himself, examined the poll book, and had seen the names of the two men who voted together, and he entertained no doubt that they had gone round to every ward except one, and deposited their votes. It was notorious that such frauds were perpetrated by men, throughout the country, not of any particular party, but of all parties. And, it was a fact,—in relation to which there had been many criminations and recriminations by the two political parties—that they do import voters from different parts of the

country, who commit most of these frauds. He did not believe there was a single gentleman that doubted it.

He would ask if the delegates to this convention desired such a state of things?—if they did not deem it their duty to put an end, as far as lay in their power, to this state of things? He conceived that to require five, ten, or fifteen days' residence, to entitle a man to vote, would be no infringement on the rights of an elector. He regarded it as no argument to say that by a provision of this kind, a voter would be deprived of his vote—disfranchised, in fact, as the gentleman before him (Mr. Martin) seemed to think.

We disfranchised every man for the non-payment of a tax. The right of election was no greater right than the right of office; it was not a natural right, but a political right, acquired from the form of the government under which a man lived. He maintained that no man could properly and consistently call this restriction a disfranchisement of citizens. As the gentleman from Northampton (Mr. Porter) was not present, he, Mr. D., might use one of his phrases—"What is good for the goose is good for the gander." Parties change. What might be good for one party to-day, might be likewise good for another to-morrow. But, the question was as to what ought to be the general rule.

He congratulated the gentlemen on the other side, upon the efficient supporter they had got, in the gentleman from the county of Philadelphia, (Mr. Brown) who was ever loud in praise of his party, and what they had done. He would say [Mr. B. was not in his seat] to the gentleman, who was scarcely ever in his seat, and who never listened when any thing was said, except when he spoke himself, that he could not see any thing in his argument, which went to convince him that such a provision as he, Mr. D., advocated, ought not to be inserted in the constitution. Perhaps, the fact of the gentleman's voting against the amendment, might induce others to vote for it.

He would conclude with saying that if a man could change his residence three or four times a day, there could be no evidence to prove that he was entitled to a vote, but when a man was compelled to reside a certain time in one district, before being permitted to vote, then we fixed the *indicia* of his residence. If the amendment of the delegate from Lancaster (Mr. Reigart) should not prevail, one fixing a shorter period, at least, ought to be adopted.

Mr. CURLL, of Armstrong, would say, in reply to what had been said by the gentleman from Franklin, (Mr. Dunlap) that he would not be deterred from voting against this amendment, although the delegate threatened to bring one forward in another shape. The gentleman and his party must take the responsibility of that.

Mr. HESTER, of Lancaster, said he was in favor of the principle of his colleague's amendment—that he had thought a ten days' residence not too long, but that, on further reflection, he had come to the conclusion that five days would be long enough.

Mr. FULLER, of Fayette, asked for the yeas and nays.

And, the question being taken on the amendment, it was decided in the affirmative—yeas 64; nays 60.

YEAS—Messrs. Agnew, Ayres, Baldwin, Barndollar, Barnitz, Biddle, Brown, of Lancaster, Carey, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clapp, Clarke, of Beaver, Clark, of Dauphin, Cline, Coates, Cochran, Cope, Cox, Craig, Crain, Crum, Darlington, Dickey, Dickerson, Farrelly, Forward, Gilmore, Harris, Hays, Henderson, of Allegheny, Henderson, of Dauphin, Hopkinson, Hout, Jenks, Kerr, Konigsmacher, Lyons, Maclay, M'Call, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Purviance, Reigart, Royer, Russell, Seager, Scott, Seltzer, Serrill, Sill, Snively, Stickel, Taggart, Thomas, Weidman, Young, Chambers, *President, pro tem*—64.

NAYS—Messrs. Banks, Barclay, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Clarke, of Indiana, Cleavinger, Crawford, Cummin, Curll, Darrab, Denny, Dillinger, Donagan, Donnell, Doran, Dunlop, Earle, Fleming, Foulkrod, Fry, Fuller, Gearhart, Gilmore, Grenell, Hastings, Hayhurst, Helfenstein, Hiester, High, Hyde, Ingersoll, Keim, Kennedy, Kreba, Magee, Mann, Martin, M'Cahen, Miller, Nevin, Payne, Read, Riter, Ritter, Rogers, Schaeetz, Sellers, Shellito, Smith, of Columbia, Smyh, of Centre, Sterigere, Sturdevant, Todd, Weaver, White, Woodward—60.

Mr. MARTIN, of Philadelphia county, moved to amend, by inserting the word "white" before "freemen," in the first line.

On motion of Mr. READ, of Susquehanna,

The Convention adjourned until half past three o'clock.

WEDNESDAY AFTERNOON, JANUARY 17, 1838.

THIRD ARTICLE.

The convention resumed the second reading of the report of the committee to whom was referred the third article of the constitution, as reported by the committee of the whole.

The question being on the motion of Mr. MARTIN, of Philadelphia county, further to amend the first section of the said article by inserting the word "white" before the word "freeman," where it occurs in the first line: and also by inserting the word "white" before the word "freemen," where it occurs in the seventh line,

Mr. INGERSOLL, of Philadelphia county, rose to make one or two suggestions, and he was sorry that he felt himself obliged to do this. The proposition submitted by his colleague was of a very exciting character; and, in his opinion was scarcely as judicious as it was exciting. It was a subject which had been so often before the public that there were few who had not thought about it. He was not at all desirous to renew the discussion. He begged that he might be permitted to express a doubt whether the discussion now could be productive of any advantage. There were only fifteen working days left before the time fixed for the adjourn-

ment of the convention. There was yet the judiciary article to be taken up, and considered. There was also the bill of rights to be taken up, and there were some important subjects connected with that article, on which suggestions would doubtless be made, which would be very useful. He had an anxiety to hear what might be said, in reference to these important subjects. He would throw out the suggestion, that, if gentlemen wished to sit out the question to-night, he was willing to remain here until nine or ten o'clock. There were some speeches to be made, and to which he would listen with pleasure. He threw out the suggestion, in the hope that gentlemen would determine to stay in the hall, and sit out the debate, otherwise it could not be practicable to get rid of the subject to-night. He did not wish to make any further remarks.

Mr. MARTIN, rose and addressed the Chair to this effect:

Mr. President, in offering this amendment, I entirely disavow any hostility to the coloured man; on the contrary, no person would go further to protect them in all their natural rights; or to secure them from insult and injury. I would preserve them and theirs, by the laws, and by the constitution; but to hold out to them social rights, or to incorporate them with ourselves in the exercise of the right of franchise, is a violation of the law of nature, and would lead to an amalgamation in the exercise thereof, that must bring down upon them, the resentment of the white population.

Sir, the divisionary line between the races, is so strongly marked by the Creator, that it is unwise and cruelly unjust, in any way, to amalgamate them, for it must be apparent to every well judging person, that the elevation of the black, is the degradation of the white man; and by endeavoring to alter the order of nature, we would, in all probability, bring about a war between the races—a state of things that every lover of his country must regret.

Sir, we are told that the supreme court has this subject under consideration, and we are recommended to leave it to it—but I think differently from those who thus advise us. Who knows when or how, the court will determine this matter? There have already been several decisions of court upon the subject. But the constitution is the proper tribunal, let it be the fundamental law of the land, let it decide the difficulty here, and the courts will corroborate our decision, and thus effectually settle this vexed question; public opinion will sustain us; the amended constitution will be carried by a large majority; and Pennsylvania, will be disenthralled. She will not then be the receptacle of fugitive slaves, or runaway negroes from slave holding states, as she now is, and likely to be, to much and increasing disadvantage to the honest and industrious mechanics and working classes of society. Some gentlemen object to this amendment, on the score of difficulty in pointing out a correct grade for the standard of colour; but it is not necessary further to pursue this part of the subject, than to remark that sixteen of the states have this clause in their constitutions and no difficulty has yet accrued therefrom, and it is futile to suppose that it will be otherwise with us.

Sir, there is yet another and a very strong reason, why we should meet this point firmly and boldly; the question of abolition and amalgamation. It is pressed with a zeal worthy of a better cause, by mistaken philanthropists, who feel a species of fanaticism which will leave nothing undone, to

urge this matter forward, until confusion and difficulty thicken around us. But as I do not wish to be severe to those who differ from me, in opinion on this subject, I can only suppose that they have gone no farther than to look on one side of it, and do not therefore reflect, that to elevate the black, is to degrade the white people ; and from misrepresentation of the state of the black slaves, and a want of correct information of the over-worked and oppressed poor of their own race, they have suffered their sympathies to run altogether on the side of the well-fed, well-provided negro, of whom they know nothing, except from accounts given by interested knaves, seeking to get up an excitement to profit by themselves. They are generally renegades from Europe, too lazy to work, but willing to draw on the weak minds of otherwise well disposed persons, who, caught by their exaggerated falsehoods and tales of misery, that never existed, are prevailed upon to act with them.

Mr. President, I am sure that there are thousands and tens of thousands of our own race, who are actuated by a laudable ambition, that the negro never feels, that ought to claim the sympathy and feel the helping hand of some of those who so abundantly have the means, and turn their resources into a wrong channel. I, therefore, anxiously wish this amendment to succeed. Our destiny depends upon it: and the well-being of our offspring, is closely connected with the new and amended constitution.

The argument (continued Mr. M.) that was continually ringing in our ears was, that there were so many individuals among our black brothers and sisters, who possessed education and talents of no ordinary character. That was altogether a piece of sophistry and a cheat. When we saw ladies of the highest respectability met in grave assembly, and passing resolutions in favor of what they called their coloured brothers and sisters, while, at the same time they would not associate, or intermarry with them, how could we believe that they were in earnest when they talked as they did ? It was wholly impossible ; it was nothing less than a cheat. If one of those ladies were likely to become the sister of a coloured woman, would not any such attempt be frowned upon, in the most indignant manner by both sexes of her own race ? Or, if a brother of any of those ladies were to marry a coloured woman, would they not be equally mortified and indignant ? Undoubtedly they would.

He (Mr. M.) cared not what might be the talents and abilities of some of the coloured people, and the sympathy which a part of the community might entertain for them, he did not believe, despite of all their professions, that they could treat them as brothers and sisters. He felt quite sure that they would shrink back at the bare idea of intermarrying with them. He wanted no more of this sophistry and cheatry in regard to the blacks. He wished the question settled at once, and proclaimed abroad, that there is a wide difference between the white and the black races. As, then, there has been so much said on the subject, he would not further occupy the time of the convention, but bring the motion before it, which he hoped would succeed, and thus settle this vexed question.

Mr. FORWARD, called for the previous question ; which was sustained. And, on the question, " Shall the main question be now put ?

Mr. M'CAHEN asked for the yeas and nays, which being ordered and taken, were, yeas 45, nays 71—as follow :

YEAS—Messrs. Agnew, Ayres, Baldwin, Biddle, Brown, of Lancaster, Carey, Chandler, of Chester, Chandler, of Philadelphia, Clapp, Clarke, of Beaver, Clark, of Dauphin, Cleavinger, Coates, Cochran, Cope, Craig, Darlington, Denny, Dickey, Dickerson, Earle, Forward, Glenell, Hays, Henderson, of Allegheny, Hiestler, Jenks, Kerr, MacLay, M'Call, M'Sherry, Merrill, Merkel, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Reigart, Royer, Saeger, Scott, Serrill, Sill, Thomas, Todd—45.

NAYS—Messrs. Barclay, Barndollar, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Clarke, of Indiana, Cline, Crain, Crawford, Crum, Cummin, Cutil, Darrah, Dillinger, Donagan, Donnell, Doran, Dunlop, Fleming, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Harris, Hastings, Hayhurst, Helfenstein, Henderson, of Dauphin, High, Hopkinson, Hought, Hyde, Ingersoll, Keim, Kennedy, Krebs, Lyons, Magee, Mann, Martin, M'CAHEN, Meredith, Miller, Nevin, Overfield, Payne, Read, Riter, Ritter, Russell, Scheetz, Sellers, Seltzer, Shellito, Smith, of Columbia, Smyth, of Centre, Snively, Sterigere, Stickel, Sturdevant, Taggart, Weaver, Weidman, White, Woodward, Chambers, *President*. *pro tem*—71.

Mr. FULLER, of Fayette, suggested to the delegate from Philadelphia county, (Mr. Martin) to modify his amendment so as to read "Section 1. In all elections every white male citizen above the age of twenty-one years," &c.

Mr. MARTIN accepted the modification.

Mr. STERIGERE, of Montgomery, thought the convention had better confine themselves to the language of the committee of the whole, or he would say, of the constitution. He would prefer that it should stand as in the old constitution. The idea of a white freeman was, to his mind, a solecism, because it implied the idea of a black freeman, and that *black* citizen have the right of suffrage, which was precisely the idea which the gentleman from Philadelphia county wished to controvert. He desired to make the language conform to that used in the constitutions of, at least eighteen or twenty of the states of this Union. He would suggest to the delegate to modify his amendment in the first and seventh lines, so as to read "free white male citizens," as it would be unnecessary to vote twice on the same questions.

Mr. MARTIN did not accept the modification, but modified his amendment by the insertion of the word "white" before "freemen" in the seventh line.

Mr. STERIGERE would remark that in none of the constitutions of any of the states was there used the expression, "white freemen." He would suppose, therefore, that this expression was altogether incorrect. As the delegate did wish it to be supposed that the blacks had heretofore been recognized as "black freemen," he (Mr. S.) hoped that he would make the modification suggested.

Mr. STURDEVANT, of Luzerne, rose and said :

Mr. President,—I must beg the indulgence of the convention, while I, as briefly as possible, submit my views upon the subject now under consideration. My inexperience admonishes me that my opinions on so vital a question as this, cannot carry with them much weight, and inclines me to keep silence and learn wisdom from the aged and experienced delegates, whose opinions we may expect to hear before the close of this

neither citizens nor freemen, they left them where they had found them, in the enjoyment of no political rights.

Such, then, was the condition of the negro in 1776, and such it continued to be up to 1780, when an act of the legislature was passed "for the gradual abolition of slavery" in this commonwealth. This law, among other things, repeals the laws for the government of negroes before referred to, gives to them the trial by jury, and ordains, that no negro born after its passage in Pennsylvania, should be a slave for life. This act changes in no way the *political rights* of the negro. It gave him no other rights or privileges than those specified. It conferred not upon him the rights of a *citizen*, a *freeman*, or an elector.

I think, therefore, sir, that up to the date of the constitution of 1790, the negro, although in the enjoyment of some additional civil rights, was not a citizen or a freeman.

Did the present constitution confer on him the right of suffrage?

Pennsylvania was still a slave holding state. All those unfortunate beings who were slaves for life, at the passage of the law referred to, in 1780, were still slaves, and their children being born of slave parents, were slaves till the age of twenty-eight years. The legislature, unquestionably, had the power to have repealed the laws of 1780, "for the same power which took off the burthen might impose it again at pleasure."

In the constitution of 1790, (Art. 3d, sec. 1st,) nearly the same language is used as in the old constitution. The language of the present constitution is, "in elections by the citizens, every freeman of the age of twenty-one," &c. Now, sir, had the framers of the present constitution intended to have embraced in the word "citizen," or "freemen," the negro population, would they not have used some language that would have placed that intention beyond doubt?

A strong circumstance that of itself would have much weight in my mind, is, that the constitution of the United States had been adopted prior to the meeting of the delegates to form the constitution of 1790, and out of the *thirteen* states who had adopted that constitution, *eight* of them were *slave holding states*. In this constitution the words "citizen," "freemen," and "people," are used as in the present constitution of Pennsylvania, and most surely could not have then been supposed to include either slaves or free negroes.

"The citizens of each state shall be entitled to all the privileges and immunities of the citizens in the several states." This is the language of the constitution of the United States. If we regard for a moment the situation of the thirteen states who adopted this constitution, we must certainly admit that the citizen here does not embrace the negro. It does not include either the slaves of the slave holding states, or the free blacks.

It is provided also, by the constitution of the United States, "that the right of the people to keep and bear arms shall not be infringed." Yet in all the slave holding states, at all times negroes, whether free or slaves, have been prohibited from carrying arms. The word "people," therefore, as used in that constitution, does not include the blacks.

Compare the constitution of the United States with the constitution now in force in this commonwealth, and you cannot but be forcibly struck

with the similarity of the two instruments. The words "citizen," "freemen," and "people," are used in each instrument, to convey the same meaning. One of the delegates from Pennsylvania, to the convention to frame the constitution of the United States, was afterwards a delegate in the convention that framed our state constitution; and as he was one of the committee appointed to report the constitution of Pennsylvania to the convention, it is rendered more certain that the same sense was given to every important word used in this instrument, which had been given to the same words in the constitution of the United States. From a careful examination of the subject, I am most forcibly drawn to the conclusion, that the negro is not a citizen or a freeman, in the sense in which those words are used, either under the constitution of the United States or the constitution of the state of Pennsylvania.

Slavery existed in this commonwealth, when the constitution of 1790 went into operation, and for years after; and the negro, at that time, was regarded as inferior to the white, and it was deemed neither sound policy for the state, nor in accordance with the letter and spirit of the constitution of the United States, to confer upon him any political rights.

I might refer to various sections of the constitution of 1790, to support me in the position I have taken. I will, however, only refer to one more section: "*The freemen* of this commonwealth shall be armed and disciplined for its defence." This is a positive constitutional provision, and has been carried into effect by our "militia laws." By these laws, negroes are excluded from doing militia duty. Why exclude them if they are *freemen*? The legislature were bound to make such laws as would embrace all the freemen of the commonwealth, and could have had no right to except any portion of the citizens or freemen.

This continued legislation, excluding the blacks, is strong evidence, in what sense they viewed the word freemen.

Having settled, as it appears to me, sir, satisfactorily, the question that the negro is not an elector, the next point is, shall we give him that right, or shall we, by the introduction of the word "*white*," prevent further difficulty and dispute upon this vexed subject? I should feel willing to leave the article proposed to be amended, as it is, and let the judicial tribunals of the country settle the matter; but that I regard it as a question more peculiarly within the province of this convention. We are here to amend the constitution, and we should so amend it, that when it is submitted to the people, it will be intelligible, and capable of but one construction. Let us, then, say distinctly, that the negro, hereafter, shall be an elector, or let us say that he shall not.

No man, sir, on this floor, feels more sympathy for this unfortunate race than I do. No man regrets more than I do, the existence of slavery, in this country. Yet, sir, I am not disposed to interfere with the institutions of slavery, in any of our sister states. I am no abolitionist. I believe the American people will have to answer hereafter, for the sin of having introduced slavery among them; but, at the same time, I do not believe that the doctrines or measures pursued by the abolitionists, will have the least tendency to expiate that sin. On the contrary, sir, the course being pursued by that class of men, will only tend to degrade the negro—to rivet still closer his chains, and finally, by exciting sectional prejudices, may subvert the liberties of our happy country.

In this commonwealth, sir, I would give to the negro all those rights which he now enjoys. I would place him as nearly on an equality with the white, as the condition of his race would warrant. I would secure to him those civil and religious privileges peculiar to our institutions, but never, sir, would I concede to him, that *political*, that *conventional right*, which was purchased with the blood and treasures of our ancestors—the right of voting and being voted for. Whenever you confer on them the right of voting, you, at the same moment, concede to them the right of being elected to the highest office in your state—a condition of things that no *patriot* can desire to see. I am satisfied that it is not the desire of the black to enjoy the right of suffrage. They, sir, would have been silent on this subject, but that they have been goaded on by the mistaken zeal of deluded philanthropists.

The negroes have not complained. They have now equal rights with a majority of the people of this commonwealth—if you include the women and the minors. These last have not complained, though they are your equals—often your superiors in intellect and intelligence. I would object to permitting the blacks to vote, if for no other reason, on the ground of humanity to them, in mercy to their degraded condition in society. Sir, if you permit a negro to vote, you inflict upon him a curse of a deeper dye, than that inflicted by bringing him to your country. You subject him to insult and injury by an attempt to bring him to the ballot box. I should dread the consequences of such an attempt. The prejudice of the white is sufficiently strong against him now; beware how you increase that prejudice. Injury, annihilation to the black, sir, would be the result of making him the equal at the ballot box, with the white. You may say in your fundamental laws, and in your statute books, that the negro is equal to the white, but you can never force the citizens of this commonwealth to believe or practice it; we can never force our constituents to go peaceably to the polls, side by side with the negro; we can never, in the manner proposed, raise that unfortunate race of beings to an equality with ourselves.

Can the Ethiopian change his skin? Can man break down a barrier, or blot out a distinction which Almighty God has fixed between the white man and the negro? The African is a degraded race. It ever has been, and to give them the right now, demanded by their pretended friends, would be an insult to the people—it would be giving to the negro a stone when he asked for bread.

Gentlemen say that the negro, in a few centuries, will be lost. How sir? By amalgamation? Heaven forbid it. Let no man insult the American people by such a suggestion. I call upon delegates on this floor, to pause before they yield a right to the negro, which, by an attempt to elevate him, will degrade us—which will violate a sacred pledge given by this state to her sister states, at the adoption of the constitution of the United States, and which, while it is a triumph, and a sanction given to the anti-American doctrines of the abolitionists, may result finally in the overthrow of the Union.

Mr. BIDDLE said, that the question which we were about to be called upon to determine, was, undoubtedly, one of deep importance. It was also one which it became us to give a close and careful examination to, in order to decide it properly. He believed every member of this body,

in coming to vote upon the question, would act conscientiously; and he also believed, every member would act fearlessly. He thought that no individual whatever was entitled to take to himself any superiority over his fellow members, on any particular occasion. This was a question on which there must, necessarily, be a great diversity of opinion. If we refer back to our doings at Harrisburg, we will find that there were then in the convention, forty-nine only, in favor of inserting the word white, and sixty-one opposed to it; but how the vote now would be, it was impossible for him to say.

He would ask gentlemen where was the necessity of this amendment? It was now proposed to insert in our constitution, a word not to be found in the constitution of 1776, or of 1790, and why introduce this new word, unless it be to introduce a new principle into the constitution? If it is as has been said by the gentleman from Luzerne—if it was settled by the constitution of 1776—if that constitution was so explicit, as to leave no doubt upon the subject—if too, the constitution of 1790, as the gentleman says, leaves no doubt on the subject in his mind, and if the argument and decision of Judge Fox makes it perfectly clear, why change the phraseology of our present constitution? Why change the phraseology of an instrument, that has existed for near half a century, without leading to any doubt and difficulty, and make it doubtful and uncertain? If an alteration was necessary, he thought some good reason should be given for it, and he must confess, that he had heard no good reason adduced, for the change proposed to be made. He wished to be told something farther on this subject, before he was called upon to vote on a question so novel as this.

He wished gentlemen to refer to the constitution of 1776, for a moment, and see what was there said in relation to this matter. A portion of the preamble was in the following words:

“ We, the representatives of the freemen of Pennsylvania, in general convention met, for the express purpose of framing such a government, confessing the goodness of the Great Governor of the universe—who, alone knows to what degree of earthly happiness mankind may attain, by perfecting the arts of government—in permitting the people of this state, by common consent, and without violence, deliberately to form for themselves, such just rules, as to them shall think best for governing their future society; and being fully convinced that it is our indispensable duty to establish such original principles of government, as will best promote the general happiness of the people of this state, and their posterity, and provide for future improvements, *without partiality for, or prejudice against any PARTICULAR CLASS*, sect, or denomination of men whatsoever, do, by virtue of the authority vested in us, by our constituents, declare, ordain, and establish the following declaration of rights, and frame of government, to be the constitution of this commonwealth.”

Then we find by this, that our forefathers, in 1776, when the flame of liberty was as bright and clear as it ever has been since, declared that they wished to act without partiality to any particular class, sect, or denomination of men whatsoever. Well, in that constitution, we find they declare that all freemen shall enjoy the right of suffrage. If we attempt to alter the constitution in this respect, we must declare that this people are not

freemen, and the word freemen would be impaired; for, by the seventh section of the first article of the constitution of 1776, it is declared, "that all elections ought to be free, and that all freemen, having a sufficient evident common interest with, and attachment to the community, have a right to elect officers, or to be elected into office."

Again in the sixth section of the second chapter, it says, that "every freeman of the full age of twenty-one years, having resided in this state for the space of one whole year, next before the day of election for representatives, and paid public taxes during that time, shall enjoy the right of an elector."

This was the manner in which this subject was settled in 1776. In 1790, after an interval of fourteen years, our fathers again assembled together to revise their form of government, and lay down new and better forms, for the government of their posterity, and it was then proposed to insert this word "white," and after due deliberation, these sages refused to insert it in the constitution of 1790. Then, what change has come over us to make it necessary to have this word inserted? Is it urged upon us now, in consequence of any peculiar feeling on this subject, in other states? He trusted not. If there was no good reason for making this change in the constitution, before the assembling of this convention, he should feel reluctant to move in the matter, when the country abroad is excited, and when agitation prevails in Pennsylvania in relation to it.

He was for standing by the institutions established by our fathers of the revolution. While, on the one hand, he would do all in his power to produce union and harmony, he must, on the other hand, stand by those institutions, which had been long established, and which had been productive of such unexampled happiness and prosperity.

Much had been said about the different classes, and the colour of the skin of this peculiar class of people, but if we went into an examination of the complexions of those who ought to be entitled to the right of suffrage, we would find them various. We would almost find as many different complexions as we would voters, and still nothing would be gained by the examination. It was true, many of these people did not enjoy the opportunity of becoming as intelligent as our own people, and many of them were in a state of slavery; but still, as a question of political right in Pennsylvania, he thought this ought to go for nothing. All he desired was, to adhere to the rule laid down by the constitution of 1776, and of 1790. This he would stand by, and he must do all in his power to prevent the introduction of a new word of such uncertainty, into the constitution of our state.

He was a lover of antiquity; he was a lover of the works of our fathers. He was not a believer in the new lights of modern times. If ever there had lived a set of men who understood the principles of civil liberty, and who were entitled to the blessings of posterity, it was those very men whose work this convention were now revising, and under which form of government the people of the commonwealth of Pennsylvania had lived so happily and flourished so long.

Mr. MACLAY, of Mifflin, rose and said—

Mr. President:—In addressing such an assembly as this, it is not uncommon for members to make professions of honesty of intention—of a

conscientious discharge of duty, without regard to consequences—of following truth and justice wheresoever they may lead, with other declarations of similar import. I shall make, on this occasion, no professions of the kind; but will only observe, that the man who raises his voice, in these times, in behalf of the rights of the poor negro, cannot be charged with making a popularity-hunting speech, whatever else he may be charged with. But without farther allusion or inquiry, as to what may be popular or unpopular in this matter, I shall proceed to give some of the reasons which will govern my vote on the question now before us. In doing this, I shall be as concise as possible, for I have no wish or intention to make a long speech.

I think it material to ascertain, in the first place, what are the principles which ought to govern us in the consideration of this question. There are certain first principles at the bottom of every thing; and if we do not agree on those principles, it is not to be expected that we should agree on a question which depends, for its solution, on those principles.

Now, without entering upon a lengthy discussion of the matter, I think a slight consideration will show that the principles which ought to govern us in determining the question now under consideration, are the principles of morality and religion.—I say the principles of morality and religion, for religion is the foundation on which morality rests. The main design and purpose of morality is to teach us our duty to our fellow men: and unless it can be shown, that the people of colour, as they are called in this commonwealth, are not our fellow men, it follows, of course, that the line of conduct which we pursue towards them, especially in matters which affect their prosperity and happiness, should be regulated upon moral principles. In support of this opinion, I beg leave to quote a passage from Mr. Paley's *Moral Philosophy*, which is directly in point. He says:

“The part a member of the commonwealth shall take in political contentions, the vote he shall give, the counsels he shall approve, the support he shall afford, or the opposition he shall make to any system of public measures, is as much a question of personal duty, as much concerns the conscience of the individual who deliberates, as the determination of any doubt which relates to the conduct of private life.”

These considerations account for the great diversity of opinion which exist among us, with regard to the treatment of the colored race. It is well known that we have, in this country, a great variety of religious and moral opinions, and a great variety of irreligious and immoral opinions too. Under these circumstances it will naturally follow, that we shall have differences of opinion upon all subjects which depend upon religious or moral considerations. I think this idea important in considering this matter, and will illustrate it in this way.—The man who thinks there is nothing wrong in domestic slavery, or who thinks it wrong only in a slight degree, will feel entirely indifferent to the subject if his own interest is not concerned; but very different will be the feelings of the man who regards domestic slavery as so great a wrong that, as Mr. Jefferson says, he trembles for his country, when he reflects that God is just. This shows that different men will come to different conclusions on the same subject, owing to the different principles which they bring to the consideration of it.

Viewing, then, as I do, all questions relating to the treatment of the African race among us, as essentially questions of morals, I feel altogether

averse to the proposition now before us. It is an attempt to introduce a new provision into our constitution, altogether at variance with those principles of justice and philanthropy, which have so long and so highly distinguished Pennsylvania in all parts of the civilized world, and especially in all parts of what may be denominated the christian world. No such proposition, as the one now made, could have passed in any law of Pennsylvania in the time of the revolution, or during the time that the men of the revolution held the government of the commonwealth in their hands. Those men, it will be recollected, made two constitutions for Pennsylvania,—but no such provision as the one now proposed is to be found in either of them; and if this convention should adopt the proposed amendment, it would be strong evidence that we are departing from the principles which actuated the founders of the commonwealth. To adopt the proposed measure, would be a retrograde movement in the march of free government; it would be receding from our own best principles; and that at a time when other nations are advancing.

I do not, however, oppose the present motion so much on the ground that it could not have been passed in former times in Pennsylvania, as on the ground that it is unjust at any time. It purposes to disfranchise a whole class of men without the allegation of any crime, and without even the omission of any duty which it was in their power to perform. Is this just? If you make the right of suffrage to depend upon qualifications, which every man has an equal right and an equal chance to acquire or to keep, it is all fair, or in the language of the constitution “elections are free and equal.” But to make the criterion of a man’s right to vote, to depend on his complexion—a matter which no man can control—is to establish an arbitrary rule, altogether inconsistent with every principle of reason and justice.

I shall, perhaps, be called a fanatic or enthusiast,—for those terms are generally pretty freely used when subjects of this kind are mentioned; but so far as I can judge, I am neither the one nor the other. I endeavor also to guard myself against prejudice; and here I must observe that, in my humble opinion, prejudice is a distemper much more common, and much more inveterate, than either fanaticism or enthusiasm.

Viewing the subject, then, as calmly as I can, I am ready to admit that the people of colour, as they are called, in their present depressed and uncultivated condition, are not a desirable species of population. I should not prefer them as a matter of choice. But this is not the question,—for, whether they be desirable or not, we find them here,—and here without any fault on their part,—born in the country. More than this, sir, the African race, as we all know, were brought to this country in the first instance by fraud and violence. They did not come intruding or trespassing upon any body; and under these circumstances they have certainly strong and peculiar claims, to be treated with justice and humanity. But I cannot regard the proposed measure as either just or humane. On the contrary, it is calculated to fix a stigma upon the people on whom it is intended to operate. It is throwing an obstacle in the way of their improvement. It is, in fact, adding another item to the long catalogue of wrongs which these people have endured. It should also be recollected, that the coloured people among us are a poor and helpless race; they are entirely in our power; we may pass such laws as we please respecting them; and if we

do them injustice they have no redress. Where will these people find justice if it is denied them in Pennsylvania? We ought, therefore, it appears to me, to be doubly careful that we do them no injustice.

But I have another objection to the proposed measure. I should regard it, if adopted, as an ominous and dangerous precedent. Where would this kind of policy lead us? I speak now of the state of Pennsylvania. If we may deprive these people of one right, to-day, merely to gratify our prejudices or our inclinations, we may deprive them of another right to-morrow, and of another next day, and so on until we deprive them of all their rights—in other words, until we make slaves of them. When power is all on one side, who is to determine when to stop? Gentlemen may say that they have no intention of depriving these people of any right except that of suffrage. Be it so; but it is the misfortune of society, that bad precedents may be followed, as well as good ones. If we set a bad precedent, what reason have we to expect that it will not be followed? We are often referred to the example of other states, for depriving the coloured people of the right of suffrage; but the example of other states may be cited for depriving them of more rights than this.

But we are told that men of colour should be excluded by a constitutional provision, from the right of suffrage, because, not to do so, would be holding out to them expectations which can never be realized; that the whites will not permit them to enjoy this right; that the attempt of a coloured man to vote, would, in some districts, be resisted by force. It is, sir, with reluctance that I believe such statements as these: I am not, however, from my own knowledge, able to say that they are unfounded. But admitting the fact to be as stated, it does not, therefore, follow that we ought to exclude these people from the right of suffrage by inserting an unjust provision in our constitution. No doubt injustice will be done in various cases, in the commonwealth; but if injustice will be done, let it be done against law, and not with law. Let the law be just, whether men will be just or not. It is not long since we have seen a religious establishment of the Roman Catholics, in the state of Massachusetts, destroyed by a mob, and the inmates obliged to fly for their lives. But is that a good reason why that state should alter her constitution, and prohibit such an establishment? I think not.—I cannot so view it. If that state should so alter her constitution, she should make no pretence to freedom of religion and the right of conscience; and if we alter our constitution in the manner now proposed, we ought to expunge from our bill of rights that clause which provides that “elections shall be free and equal.”

I had thoughts of giving my views of a position that has been lately advanced, that free people of colour in this commonwealth are not citizens. But I can hardly believe that such a notion will make much impression, either on this convention, or on the public at large. The very motion now before us is in fact a refutation of the argument; for if free men of colour are not citizens, why exclude them from elections “by the citizens.”—Why use the word *white* in connexion with *citizens*, if there are no citizens who are not white? The argument appears to me to be altogether untenable. That a free man born and brought up in the commonwealth, and always subject to the laws of the commonwealth, is not a citizen in the place of his birth, is to my mind, the strangest doctrine that I ever heard in political science. To say that these people have often treated

as an inferior race, is no proof that they are not citizens. A man may be badly treated, either by force or fraud, or disregard of his rights, in various ways,—but because he has been badly treated, it does not therefore follow that he is not a citizen.

There are some other views of this subject, Mr. President, which I might take, but I have already said that I did not intend to make a long speech.—I shall therefore only express the hope that, with regard to the right of suffrage, we shall adhere to our old constitution, and our old principles.

Mr. EARLE, of Philadelphia county, said, the remark had been made here, that inasmuch as this was an exciting subject, it therefore, ought to be decided without debate. Now, his opinion was directly the reverse of this ; the subject ought not to be disposed of, without being fully and amply discussed. But, as was admitted, and indeed it was quite apparent, that delegates were not in a fitting train of mind to discuss it, they should defer an expression of their sentiments until they were better prepared. This body occupied five or six weeks in argument, on the question of restricting the banks, to the issuing of notes of a denomination not less than five dollars. Ought we, then, to decide without full discussion, the proposition now under consideration, which, if he understood it rightly, went to proscribe three-fourths of the whole human race on the face of the globe, to brand them as outcasts, and inferior beings ?

It was a proposition, which, if the founder of the christian religion and the twelve apostles, who first propagated it, were on earth, would perhaps exclude them from a participation in the privileges that we enjoy. It would not only shut them out, but all the aboriginal inhabitants of this country, whose lands we had taken possession of, by various frauds practised upon them.

This was a question of great magnitude, and, in his opinion, present action upon it, was of doubtful policy, because, under the provision for the making of future amendments to the constitution, the people of Pennsylvania might hereafter decide it deliberately, and according to what they might deem the immutable principles of justice. This was not one of those questions which had led to the call of this convention. Of all the public proceedings that had taken place in relation to the meeting of this body, he did not recollect, that any reference had been made to this question. At the time the delegates were elected, it might have been agitated in a single county of the state, but he thought in not more than one.

Nothing had been said in regard to it by the newspapers of the commonwealth. There were various subjects brought up for discussion, and upon which the people had already formed an opinion. The Bank of the United States was one, among many that might be instanced. He maintained, that the discussion of a subject had, generally, a great influence on public opinion ; but what that opinion now was, in reference to the question under consideration, this convention knew not. He thought they were uninformed. Neither this body, nor the public at large had reflected sufficiently upon it, to be enabled to make up a deliberate and final opinion. He did not think there was time enough, between now and the period when the amendments were to be submitted to the people, to allow of sufficient deliberation by them. Supposing every thing claimed by the advocates of this amendment, to be conceded, did it follow, he would

ask, that it was politic to submit it at the present time? Certainly not, if it was opposed to the individual opinions, of a large portion of the people of the commonwealth of Pennsylvania. We carried the call of a convention with some difficulty; and, in all probability, the adoption of the amendments would be attended with not less opposition.

Now, if we introduced amendments, which were contrary to the consciences and opinions of many, we should consequently compel them to vote against the other amendments. He trusted, that delegates would not introduce an amendment which would interfere with notions of christian duty—that they would confine themselves to mere political questions, and leave this question for farther deliberation. The commonwealth had existed without this provision in its constitution ever since the year 1776, up to this time, and he thought that there was no danger to be apprehended as to its existence for two years longer. But, if he entertained the opinion, that it would end in a general conflagration, or that the delegate from Luzerne, (Mr. Sturdevant) would be compelled to marry a person contrary to his wishes and inclination, why, then, he would not advocate a postponement of the question. But, he did not think, things would come to such a pass.

Although, the gentleman from the county of Philadelphia, (Mr. Martin) might entertain the opinion, that the coloured people have no claim to exercise the right of suffrage, and although, he might consider those who advocated their rights, as making professions which were nothing less than hypocrisy, and a cheat attempted to be practised upon the rest of the community; and although he might establish that fact to the conviction of the convention, yet he would, probably, not be so successful in regard to the whole people of the commonwealth.

The delegate from Luzerne (Mr. Sturdevant) had argued, that the negroes are a distinct race. There would be many unconvinced, notwithstanding his opinion and the argument he had advanced.

What, he Mr. E., would ask, did the declaration of independence of the United States, say? Did it mean what it said? Did the gentleman from Luzerne, mean to assert, that Jefferson, Madison, Franklin, Patrick Henry, Hancock, Judge Marshall, and in short, all the patriots and wise men, of the former and the present age, did not mean what they have said? The gentleman stated what to him seemed to imply, that the Creator of the universe, committed a radical error, when he made men of different complexions; and he attempted to show the convention the superiority of the whites over three-fourths of the people of the world, and he declared that he would maintain his superiority in this world, and in the world to come.

Mr. STURDEVANT, (interrupting) explained, that he had made use of no such language, as that which was attributed to him. He had said, that he would maintain on that floor, and in the world to come, if he was permitted, that the negroes are a degraded race, and the white entitled to superiority over them.

Mr. EAMLE. "If he was permitted" he would do so. Well, the gentleman's argument went the length of saying that the Chinese, the East Indians, the Spaniards, the Egyptians, in fact, that three-fourths of the human race are brutes, and are made for the use and service of the other

part. Although the gentleman might think it policy to convince the people generally, that such was the fact, yet the people might remain unconvinced.

He, Mr E., had said that he understood the delegate from Luzerne, to maintain that the Creator of the universe committed a radical error, in making men of different complexions. If he misrepresented the delegate, he was sorry for it. He, however, had understood him to say so, and that the negroes were a degraded and inferior race, and would remain so, and that he was sorry for it, but that the Creator had so willed it. Therefore, the gentleman was sorry for what the Creator had done.

Now, many of the people of the commonwealth, might not regret it; and hence they might not adopt the amendment. They might entertain the opinion, that the declaration of independence meant what it said—that Jefferson meant what he said. Looking, then, at this question in every point of view, he thought the better course would be to leave it for future action, when it could be discussed calmly and deliberately, and when, perhaps, gentlemen would have a fairer opportunity of convincing the people of the commonwealth, of the justice and correctness of their views.

He believed the amendment which the gentleman proposed, would be contrary to the religious opinions of a majority of the professors of religion of this commonwealth, taking all denominations together, and we know that among them there are many of your most intelligent men, as well as many very intelligent females. There were many of those persons who were accustomed to read in the Scriptures: "You shall do unto others, as you would that others should do unto you."

Now, he presumed the gentleman from Luzerne, would look upon this as referring merely to affairs of private intercourse, but there were many who would look upon it otherwise. There were men who would believe it to be as wrong to deprive a man of political rights, as of any other rights.

These people of colour are under the same laws which we are under. They are liable to be taxed, to be fined, to be imprisoned, and why should they not have the same rights secured to them, which we have? Gentlemen should not deal harshly with these people. As it is said in St. Luke, "you should be merciful as your Father in Heaven also is merciful."

He would engage that these people could show by the Holy Scriptures, that God was no respecter of persons; and if we expect him to be merciful to us, we must be merciful to others. In the day of retribution, there would be no inquiries made as to whether we had white or black skins, so that we have clear hearts; therefore, let us do justice to all, and oppress none, however degraded, or of whatever description of persons.

If gentlemen will look to the Acts of the Apostles, chapter 17, verse 26, they will see it there written, that "God hath made of ONE BLOOD, all nations of men, for to dwell on all the face of the earth, and hath determined the times before appointed, and the bounds of their habitations."

Now, he wished gentlemen who were in favor of liberal principles, to have time to bring forward proofs of the justice of the amendment,

attempted to be passed through this convention, if it be true that it has justice for its foundation. He wished gentlemen to give time to ascertain whether that part of the declaration of independence, which says that all men were born free and equal, only meant white men, or whether it meant *all men*.

He, Mr. E., could, in his present state of mental darkness, see but little difference between personal slavery, and political slavery, for the moment you subject a man to proscription, and make him a slave politically, that moment you adopt a principle, which, if sound, will justify enslaving him personally.

He considered this as a question of liberty or slavery, and thus he should treat it. He would ask gentlemen to weigh well this matter, before they decided it. He would ask them what would be thought of it by the friends of free government in Europe, if such a principle was adopted, in a land professedly of liberty and equality.

The congress of the United States, as early as 1774, and again in 1776, passed resolutions, reprobating the slave trade, and declaring that they would neither be concerned in it, nor lease their vessels to those that were; and would gentlemen, at this late day, endeavor to establish a principle so odious, as the one now proposed to be established? He trusted not. He hoped there were too many liberal minded men in this body, to establish any such as this.

He would now beg leave to call the attention of gentlemen to an extract from Sterne's Uncle Toby.

"A negro has a *soul*, an' please your honor," said the Corporal (*doubtfully*.)

"I am not much versed, Corporal," quoth my Uncle Toby, "in things of that kind; but I suppose God would not leave him without one, any more than thee and me."

"It would be putting one sadly over the head of the other," quoth the Corporal.

"It would so," said my Uncle Toby.

"Why then, an' please your honor, is a black man to be used worse than a white one?"

"I can give no reason," said my Uncle Toby.

"Only," cried the corporal, shaking his head, "because he has no one to stand up for him."

"It is that very thing, Trim," quoth my Uncle Toby "which recommends him to protection."—*Frislam Shandy*.

This was a sentiment which gentlemen should take into consideration, as he feared it was too much overlooked. He begged leave to call the attention of the convention, to an extract from a letter from Gen. Washington, to Gen. Lafayette, on this subject. The extract was as follows:

"The benevolence of your heart, my dear Marquis, is so conspicuous on all occasions, that I never wonder at fresh proofs of it; but your late

purchase of an estate in the Colony of Cayenne, with a view of emancipating the slaves, is a generous and noble proof of your humanity. Would to God, a like spirit might diffuse itself generally, into the minds of the people of this country ! But I despair of seeing it. Some petitions were presented to the assembly at its last session, for the abolition of slavery ; but they could scarcely obtain a hearing.”—*Letter to Lafayette.*

Gen. Washington also wrote to John F. Mercer as follows :

“ I never mean, unless some particular circumstances should compel me to it, to possess another slave by purchase, *it being among my first wishes to see some plan adopted, by which slavery, in this country, may be abolished by law.*”—*Letter to John F. Mercer.*

These were the sentiments of the father of his country on this subject, and they were certainly entitled to very great consideration. He wished also, to call the attention of the body to another letter from Gen. Washington, which showed that there were some persons of dark skin, who possessed talents worthy of his notice.

While Gen. Washington was in command of the army of the United States, a negro woman named Phillis Wheatly, a native African, and formerly a slave, wrote, and sent to him some verses, which called forth from him the following letter :

MISS PHILLIS :

“ I thank you sincerely for your polite notice of me, in the elegant lines you enclosed ; and however undeserving I may be of such encomium and panegyric, the style and manner exhibit a striking proof your poetical talents ; in honor of which, and as a tribute justly due to you, I would have published the poem, had I not been apprehensive, that while I only wanted to give the world this new instance of your genius, I might have incurred the imputation of vanity. This, and nothing else, determined me not to give it a place in the public prints. If you should ever come to Cambridge, or near head quarters, I shall be happy to see a person so favored by the muses, and to whom nature has been so liberal, and beneficent in her dispensations. I am, with great respect, your obedient, humble, servant.”

This showed that, in the opinion of Washington, great talent might exist, as well with persons of dark, as fair skins, and where it existed, it was to be respected. Let gentlemen, then, be careful how they proscribe these people.

Mr. E. here gave way to

Mr. DARLINGTON, on whose motion,

The Convention adjourned.

THURSDAY, JANUARY 18, 1838.

Mr. SELLERS, of Montgomery, presented two memorials from citizens of Montgomery county, praying that such measures may be taken as effectually to prevent all amalgamation between the white and coloured population, so far as regards the government of this state;

Which was laid on the table.

Mr. EARLE, of Philadelphia county, presented three memorials from citizens of the county of Philadelphia, and parts adjacent, praying that no change may be made in the existing constitution, having a tendency to create distinctions in the rights and privileges of citizenship, based upon complexion;

Which was also laid on the table.

Mr. COATES, of Lancaster, presented a memorial similar in its character;

Which was also laid on the table.

Mr. COPE, of Philadelphia, from the committee on accounts, reported the following resolution:

Resolved, That the President draw his warrant on the state treasurer, in favor of H. and S. Sprigman, binders of the English Debates, for the sum of eight hundred and fifty dollars, to be by them accounted for in the settlement of their accounts.

The resolution was then read a second time, considered and agreed to.

Mr. COPE, from the committee on accounts, made also a report of the following resolution, viz:

Resolved, That the newspapers taken in pursuance of a resolution, adopted on the third day of May last, be discontinued from and after the twentieth instant, and that the secretary be required to notify the several editors to discontinue the same.

This resolution having been read a second time, and being under consideration,

Mr. MARTIN, of Philadelphia county, moved to postpone its further consideration for the present.

The question being taken on this motion, it was decided in the negative.

The resolution was then agreed to.

THIRD ARTICLE.

The convention resumed the second reading of the report of the committee to whom was referred the third article of the constitution, as reported by the committee of the whole.

The question being on the motion of Mr. MARTIN, of Philadelphia county, further to amend the first section of the said article, by inserting the word "white" before the word "freeman," where it occurs in the first line; and also by inserting the word "white" before the word "freemen," where it occurs in the seventh line.

Mr. EARLE resumed his remarks. He had not said why the amendment under consideration would have excluded the twelve apostles from voting. It was because they were not white, according to the historical accounts which have reached us: neither were they black, but of an intermediate hue. The country of Abraham was not favorable to the white complexion. He had already quoted the opinions of General Washington. He would now refer to some of the signers of the Declaration of Independence. Mr. Jefferson says:

"What an incomprehensible machine is man! who can endure toil, famine, stripes, imprisonment, and death itself, in vindication of his own liberty, and the next moment be deaf to all those motives whose power supported him through his trial, and inflict on his fellow man a bondage, one hour of which is fraught with more misery than ages of that which he rose in rebellion to oppose.

"But, we must wait with patience the workings of an over-ruling Providence, and hope that that is preparing the deliverance of those **OUR SUFFERING BRETHREN**. When the measure of their tears shall be full—when their tears shall have involved heaven itself in darkness—doubtless a God of justice will awaken to their distress, and by diffusing a light and liberality among their oppressors; or, at length, by his exterminating thunder, manifest his attention to the things of this world, and that they are not left to the guidance of a blind fatality."—*Notes on Virginia*.

In a letter to Governor Cole, of Illinois, dated in 1814, Mr. Jefferson says:

"The love of justice and the love of country plead equally the cause of these people; and, it is a moral reproach to us that they should have pleaded it so long in vain, and should have produced not a single effort—nay, I fear, not much serious willingness to relieve them, and ourselves from our present condition of moral and political reprobation. * * * Nursed and educated, in the daily habits of seeing the degraded condition of those unfortunate beings, but not reflecting that *that degradation was very much the work of themselves and their fathers*, few minds have yet doubted but that they were as legitimate subjects of property as their horses or cattle." * * *

Here Mr. Jefferson gives his opinion that if they are degraded, it is the work of our own laws that they are so. He adds:

"I had always hoped that the younger generation, receiving their early impressions after the flame of liberty had been kindled in every breast, and had become, as it were, the vital spirit of every American, in the generous temperament of youth, analogous to the motion of their blood, and above the suggestions of avarice, would have sympathized with oppression wherever found, and proved their love of liberty beyond their own share of it."

He had before him the old constitution of the abolition society. That constitution was signed by Dr. Franklin. The original was in the possession of Dr. Buckstone, a member of parliament in England. There is an anecdote (said Mr. E.) in my possession, which came from a merchant of my acquaintance, who lately resided in this city. He said he

was once at table with Dr. Franklin and was putting sugar in his tea, when the Doctor struck the table with his clenched hand and exclaimed, "young man, there is an ounce of blood to every pound of sugar." The young man was so struck with the observation, and the Doctor's earnest manner, that he left off the use of sugar for some years. The petition to congress, signed by Franklin as president of the abolition society, was dated in February, 1790.

It will be seen if he who was one of the framers of the constitution of the United States, held the doctrine of the gentleman from Montgomery, that coloured persons are not citizens. He says, "That mankind are all formed by the same Almighty Being, alike objects of his care, and equally designed for the enjoyment of happiness, the christian religion teaches us to believe, and the political creed of America fully coincides with the position." * * * * *

"From a persuasion that **EQUAL LIBERTY** was originally the portion, and is still the birthright of all men, and influenced by the strong ties of humanity and the principles of their institution, your memorialists conceive themselves bound to use all justifiable endeavors to loosen the bonds of slavery and promote a general enjoyment of the blessings of freedom."

He does not contend merely that personal slavery must be abolished, but that *equal liberty* is the right of all. I will now (said Mr. E.) refer to another signer of the Declaration of Independence, Dr. Benjamin Rush, who was president of the abolition society, after the decease of Dr. Franklin. The quotation I now propose to make, relates to the doctrines of Paine. It will be found, that Paine, like all those who are the advocates of liberty, was against the doctrine of oppression.

"About the year 1775, I read a short essay with which I was much pleased, in one of Bradford's papers, against the slavery of the Africans, in our country, and which, I was informed, was written by Thomas Paine. We met soon afterwards at Mr. Aitkins' bookstore, where I did homage to his principles and his pen on the subject of the enslaved Africans. He told me it was the first piece he ever published here."

Alluding to Anthony Benezet, Dr. Rush says :

"The state of Pennsylvania still deplores the loss of a man in whom reason, revelation, and many physical causes concurred to produce such attainments in moral excellency, as have seldom appeared in a human being. This amiable citizen considered his fellow creature man, as God's extract from his own works ; and, whether this image of himself was cut from ebony or copper ; whether he spoke his own or a foreign language ; or, whether he worshipped with ceremonies, or without them, he still considered him as a brother, and equally the object of his benevolence."

Benezet, the philanthropist, thus commended by Dr. Rush, speaking of the African race, says :

"I can with truth and sincerely declare, that I have found among the negroes as great variety of talents, as among a like number of whites ; and, I am bold to assert that the notion entertained by some that the

blacks are inferior in their capacities, is a vulgar prejudice founded on the pride or ignorance of their lordly masters, who have kept their slaves at such a distance as to be unable to form a right judgment of them."

The next quotation he proposed to make was from Patrick Henry, of Virginia, and he would here observe that those who had the least knowledge of the subject, were the most deeply imbued with prejudice. Dr. Johnson cherished as violent a prejudice against the whole French nation, as we feel against the coloured race; or, as existed between the Roman Catholics and the Protestants, or the Helots and Spartans, when they were in their full strength, before the knowledge derived from intercourse swept it away. Patrick Henry says:

"I repeat it again, that it would rejoice my very soul that every one of my fellow beings was emancipated. As we ought with gratitude to admire that decree of heaven which has numbered us among the free, we ought to lament and deplore the necessity of holding *our fellow men* in bondage."

This was to be found in the debates of the Virginia convention. Patrick Henry, was not of the opinion that there were twenty heavens, one above another, and that the highest is allotted to the white man. He would now allude to William C. Rives, one of the first men in the senate of the United States, in his reply to a speech of Mr. Calhoun. Mr. Rives spoke against the slave holding doctrines of Mr. Calhoun and regarded slavery as an evil which would be temporary in its duration. He referred to Hampden and Sydney, and said they fully proved that there was a natural equality of mankind.

He would now refer to Rousseau, who says, "Force made the first slaves, and slavery by degrading and corrupting its victims perpetuated their bondage. Since no man has any natural authority over his equals, and since force establishes no right to any, all legal authority among men must be established on the basis of conviction."

Gregoire, the French bishop, who was active in bring about the revolution, and who was distinguished as *l'ami des noirs*, the friend of the blacks, says:

"There is nothing useful but what is just; there is no law of nature which make one individual dependant on another; and, all those laws, which reason disavows, have no force. Every person brings with him into the world his title to freedom. *Social conventions have circumscribed its use, but its limits ought to be the same, for all the members of a community, whatever be their origin, colour, or religion.* If, says Price, you have a right to make another man a slave, he has a right to make you a slave. And, if we have no right, says Ramsay, to sell him, no one has a right to purchase him.

"May European nations, at least, expiate their crimes toward Africans. May Africans raising their humiliated fronts, give spring to all their faculties and rival the whites in talents and virtues only; avenging themselves by benefits and effusions of fraternal kindness, and at last, enjoy liberty and happiness."

Buffon, the celebrated naturalist, uses language very similar to this. He says :

“ Upon the whole it is apparent that the unfortunate negroes are endowed with excellent hearts, and possess the seeds of every human virtue. I cannot write their history without lamenting their miserable condition. Is it not more than enough to reduce men to slavery, and to oblige them to labor perpetually without the capacity of acquiring property ? To these is it necessary to add cruelty and blows, and to abuse them worse than brutes ? Humanity revolts against these odious oppressions which, resulting from avarice, and which would have been daily renewed, had not the laws given a friendly check to the brutality of masters and fixed limits to the sufferings of their slaves.”

J. P. Brissott, one of the prominent men of the French revolution, expressed similar opinions when he travelled in this country. He says :

“ If, as is easy to prove, the crimes of slaves are almost universally the fruit of their slavery, and are in proportion to the severity of their treatment, is it not absurd to recompense the master for his tyranny ?” * * *
“ God has created man of all languages, of all colours, equally free : slavery, in all its forms, in all its degrees, is a violation of the divine laws ; and a degradation of human nature.”

I will now turn to Daniel O'Connell. He says :

“ The worst of all aristocracies, is that which prevails in America—an aristocracy which had been aptly denominated that of the human skin. The most insufferable pride was that shown by such an aristocracy, and yet he must confess that he could not understand such pride. He could understand why a man should plume himself on the success of his ancestors, in plundering the people some centuries ago. He could understand the pride arising from immense landed possessions. He could understand even the pride of wealth, the fruit of honest and careful industry. But when he thought of the colour of the skin making men aristocratic, he felt his astonishment to vie with his contempt. Many a white skin covered a black heart.”

He would also give a brief extract from, perhaps, the greatest orator our country has produced, Wm. Pinckney, of Maryland, who says :

“ In the dawn of time, when the rough feelings of barbarism had not experienced the softening touches of refinement, such an unprincipled prostration of the rights of human nature, would have needed the gloss of an apology : but to the everlasting reproach of Maryland, be it said, that when her citizens rivalled the nation from whence they emigrated, in the knowledge of moral principles, and an enthusiasm in the cause of general freedom, they stooped to become the purchasers of their *fellow creatures*, and to introduce an hereditary bondage into the bosom of their country, which should widen with every successive generation. For my own part, I would willingly draw the veil of oblivion over this disgusting scene of iniquity, but that the present abject state of those who are descended from these kidnapped sufferers, perpetually brings it forward to the memory.

“ But wherefore should we confine the edge of censure to our ancestors, or those from whom they purchased ? Are not we equally guilty ?

They strewed around the seeds of slavery—we cherish and sustain the growth. *They* introduced the system—we enlarge, invigorate and confirm it. Yes, let it be handed down to posterity, that the people of Maryland, who could fly to arms with the promptitude of Roman citizens, when the hand of oppression was lifted up against themselves; who could behold their country desolated, and their citizens slaughtered; who could brave with unshaken firmness every calamity of war, before they would submit to the smallest infringement of their rights—that this very people could yet see thousands of their *fellow creatures*, within the limits of their territory, bending beneath an unnatural yoke: and, instead of being assiduous to destroy their shackles, anxious to immortalize their duration, so that a nation of slaves might forever exist in a country where freedom is its boasts.

“Here have emigrants from a land of tyranny found an asylum from persecution, and here also have those who came as rightfully free as the winds of heaven, found an eternal grave for the liberties of themselves and their posterity.

“For my own part, I have no hope that the stream of general liberty will flow forever, unpolluted, through the foul mire of partial bondage, or that they who have been habituated to lord it over others, will not in time be base enough to let others lord it over them. If they resist, it will be the struggle of pride and selfishness, not of principle.” [*Speech in the Maryland house of delegates.*]

He applies the term “our fellow creatures” throughout to the people of colour. “The love of liberty,” says he, “is inherent in human nature. To stifle or subdue it, though not impossible, is difficult to be accomplished. Easy to be wrought upon, as well as powerful and active in its exertions, wherever it is not gratified there is danger. Gratify it and you ensure your safety.”

He adds that Sylla, by manumitting the slaves, attached them to himself.

He, Mr. E., would also refer to Alexander H. Everett, a democratic candidate for congress at the late election in Massachusetts. He expresses the opinion that the prevailing notion that the dark skin and curling hair are proof of inferiority, is absurd and barbarous; and he quotes Herodotus, to shew that the ancient Egyptians, the fathers of sciences and the arts, had black skins, and crisped hair, and were of Ethiopian extraction. He treats the existing prejudice as barbarous, and expresses a hope that it will be dissipated by the light of knowledge.

The Rev. Mr. Walsh, who was at Rio Janeiro, says:

“I saw an African negro under four aspects of society; and it appeared to me, that in every one, his character depended on the state in which he was placed, and the estimation in which he was held. As a despised slave, he was far lower than other animals of burden that surrounded him: more miserable in his look, more revolting in his nakedness, more distorted in his person, and apparently more deficient in intellect, than the horses and mules that passed him by.—Advanced to the grade of a soldier, he was clean and neat in his person, amenable to discipline, expert at his exercises, and shewed the part and bearing of a white man similarly placed.

"As a citizen, he was remarkable for the respectability of his appearance, and decorum of his manners in the rank assigned him;—and as a priest, standing in the house of God, appointed to instruct society on their most important interests, and in a grade in which moral and intellectual fitness is required, and a certain degree of superiority is expected, he seemed even more devout in his impressions, and more correct in his manners, than his white associates.

"I came, therefore, to the irresistible conclusion in my mind, that colour was an accident affecting the surface of a man, and having no more to do with his qualities than his clothes—that God had equally created an African in the image of his person, and given him an immortal soul, and that a European had no pretext but his own cupidity, for impiously thrusting his fellow man from that rank in the creation, which the Almighty had assigned him, and degrading him below the lot of the brute beasts that perish."—[*Notes on Brazil*.

He would refer gentlemen to the character of Tonssaint l'Ouverture, the black general in St. Domingo. The history of Hayti represented him as remarkable for his patriotism and command of temper. He was a man who never broke his word. Yet gentlemen say the coloured race are not of the same natures with ourselves. The French general made every attempt to corrupt him, but to no effect.

Vincent, in his reflections on the state of St Domingo, says :

"Tonssaint l'Ouverture is the most active and indefatigable man, of whom it is possible to form an idea. He is always present, wherever difficulty or danger makes his presence necessary. His great sobriety—the power of living without repose—the facility with which he resumes the affairs of the cabinet, after the most tiresome excursions,—of answering daily a hundred letters,—and of habitually tiring five secretaries—render him so superior to all around him, that their respect and submission amount almost to fanaticism."

Mr. Madden, the traveller in Africa, says :

"Some of the finest forms I ever beheld were those of the negroes ; and had I been desirous of representing the beauty of the human figure, I have seen negroes from Darfur, the symmetry of whose persons might have served for a standard ; neither does the observation apply to the intellect of the blacks. When the negro troops were first brought down to Alexandria, nothing could exceed their insubordination and wild demeanor ; but they learned the military evolutions in half the time of the Arabs, and I always observed they went through the manœuvres with ten times the adroitness of others. It is the fashion here, as well as in our colonies, to consider the negroes as the last link in the chain of humanity, between the monkey tribe and man, but I do not believe the negro is inferior to the white man in intellect ; and I do not suffer the eloquence of the slave driver to convince me that the negro is so stultified, as to be unfit for freedom."

Yet gentlemen would give the Arab these rights which they refused to the coloured man of their own country,

The British Consul at Mogadore (Mr. Dupuis) shews that slavery produces the same effect on whites as on blacks. Speaking of the whites in slavery under the Moors, he says :

"If they have been any considerable time in slavery, they appear lost to reason and to feeling—their spirits are broken ; and their faculties sunken in a species of stupor, which I am unable to describe. They appear degraded even below the negro slave. The succession of hardships without any protecting law to which they can appeal for alleviation or redress, seems to destroy every species of exertion and hope in their minds. They appear indifferent to every thing around them ; abject, servile and brutish."

This is the condition of the whites held in slavery in Africa.

[Here the hour having expired, the CHAIR interrupted Mr. Earle.]

Mr. MEREDITH, of Philadelphia, rose and said he wished, before the question was taken, to give the views on which his vote was founded. He could not have believed that it was necessary to go into a discussion, whether the black and white man are viewed in the same light by the Creator—or whether it made any difference from what country he came, or whether an individual was white or coloured. All these points appeared to him to be of no kind of importance, in the settlement of the question before the convention. He did not admit that they had any relevancy to the subject, and that it was enough to show that an individual belongs to our common nature.

There is a provision in our constitution, designating who shall enjoy the right of suffrage, and it had never been given to the whole of the human kind. Many of the whites are excluded. Women ; all who are under twenty-one years of age, among whom are so many of superior intellect ; individuals, over twenty-one who have not paid their taxes : such as never have paid taxes ; all these are excluded, and no one believes that any injustice has been done by the exclusion. There is also a large class of foreigners, who have come to reside among us ; and, until they have passed through their noviciate, to them, also, is denied the right of suffrage. It is denied to all these, as well as to the blacks.

He could not, therefore, agree that this exclusion of the blacks, was so entirely unjust, or that the convention were bound to do any thing in relation to it. That the white people were responsible for great injustice to the African race, was not to be denied. But, in Pennsylvania, every mode had been adopted to repair that injustice, which could be adopted without injury to the institutions of the commonwealth.

In 1780 they were not in great numbers, and by various laws which were enacted at that period, they were removed from servitude, and entitled to the benefits of the same laws as the white citizens, and to protection. It was only within the last few years, that the question had been agitated, as to the propriety of raising the blacks to a superiority over the whites ; and never, until now, had it been advanced, that they ought to have the right of suffrage.

He would beg the attention of the convention, while he referred to one or two expressions in the preamble of the act of 1780. At the time when that act was passed, the language of the constitution of 1776, was fresh in the recollections of every one. The word "freemen" was used in all treaties, in the sense in which it was used by our ancestors. As citizens are called freemen of London, so they were called freemen of the state of

Pennsylvania. It follows, that if that was the case, the exclusion was such as I have named. This word was used in the convention of 1776, as it had been used before for centuries. The ink was scarcely dry in the constitution of 1776, before this act of 1780 was passed. It abolished slavery in the state of Pennsylvania. The preamble recites to that extent, that it was intended to relieve blacks from the infamy which had heretofore attached to their condition. It runs thus:

“Impressed with these ideas, we conceive that it is our duty, and we rejoice that it is in our power, to extend a portion of that freedom to others, which hath been extended to us, and release from that state of thralldom, to which we ourselves were tyrannically doomed, and from which we have now every prospect of being delivered. It is not for us to enquire why, in the creation of mankind, the inhabitants of the several parts of the earth were distinguished by a difference in feature or complexion. It is sufficient to know, that all are the work of an Almighty hand. We find, in the distribution of the human species, that the most fertile as well as the most barren parts of the earth are inhabited by men of complexions different from ours, and from each other; from whence we may reasonably, as well as religiously, infer, that He, who placed them in their various situations, hath extended equally his care and protection to all, and that it becometh not us to counteract his mercies. We esteem it a peculiar blessing granted to us, that we are enabled this day to add one more step to universal civilization, by removing, as much as possible, the sorrows of those, who have lived in undeserved bondage, and from which, by the assumed authority of the Kings of Great Britain, no effectual, legal relief could be obtained. Weaned, by a long course of experience, from those narrow prejudices and partialities we had imbibed, we find our hearts enlarged with kindness and benevolence towards men of all conditions and nations; and we conceive ourselves at this particular period extraordinarily called upon, by the blessings which we have received, to manifest the sincerity of our profession, and to give a substantial proof of our gratitude.

“II. And whereas the condition of those persons, who have heretofore been denominated negro and mulatto slaves, has been attended with circumstances, which not only deprived them of the common blessings that they were by nature entitled to, but has cast them into the deepest afflictions, by an unnatural separation and sale of husband and wife, from each other and from their children, an injury, the greatness of which can only be conceived by supposing that we were in the same unhappy case. In justice, therefore, to persons so unhappily circumstanced, and who, having no prospect before them whereon they may rest their sorrows and their hopes, have no reasonable inducement to render their service to society, which they otherwise might, and also in grateful commemoration of our own happy deliverance from that state of unconditional submission, to which we were doomed by the tyranny of Britain.

“III. *Be it enacted, and it is hereby enacted,* That all persons, as well negroes and mulattoes as others, who shall be born within this state from and after the passing of this act, shall not be deemed and considered as servants for life, or slaves; and that all servitude for life, or slavery of children, in consequence of the slavery of their mothers, in the case of all

children born within this state from and after the passing of this act as aforesaid, shall be, and hereby is, utterly taken away, extinguished, and for ever abolished."

It was the design of the legislature, as expressed in the preamble of the act, not to admit all into the class entitled "freemen;" but to restore to them the advantages of personal liberty—to give them a portion of freedom which they may safely enjoy; and not to bestow on them political rights. Before that period, they had been condemned to all the sufferings which oppression could inflict—separation from their families and friends, at the will of their master. The situation of the slave was essentially different from that of those who are placed under the protection of the laws. And, the difference between a man in the situation of a slave, and him who is restored to the privileges of freedom, is great. The latter stands in Pennsylvania, on an equality in political rights with foreigners, females, minors and other classes of white citizens—on a perfect equality with all these. No man can oppress him. No man can look down on them as to political rights. He did not know that it would be more to their advantage, if they were placed on a still more perfect equality.

The fact is admitted, that in this state, whether owing to the difference in colour or any other cause, they are not permitted to mingle in social intercourse with the white citizens, as white persons are. While this remains the habit—the prejudice if you will—of the citizens of the state—he could ask why should we be urged to admit to the right of suffrage, those with whom we refuse to associate as part of the mass of the community? He knew of no good reason why they should be admitted into the political class. They never had been admitted into it: they were very numerous: why are we to fling open the polls to them? Why should we consider them as entitled to the right of suffrage? Why, instead of exercising, among ourselves, as freemen and descendants of freemen, our political rights, should we admit blacks, raised by these ancestors, to an equality of political rights, while so many whites are excluded from the exercise of these rights? It is a privilege which cannot be enjoyed by every body.

Allow me (said Mr. M.) to ask where is the hardship in this case? It was known, and he rejoiced that it was so—while she admits the obligation under the constitution of the United States to allow the master of a fugitive slave to come and claim his property, and having made good his claim, to take him home—that Pennsylvania has been the asylum of the slave. She has opened wide her doors, and admitted slaves, as to a place of refuge. She has given to them an asylum, no matter whence they may have escaped—when they shall have set foot on the soil of this state, she has given to them full protection, and all the privileges necessary to their defence against injustice—every claim upon them being submitted to the decision of juries.

There is no tax on their labor. Every thing done in reference to juries and militia, shews the harmony which exists between the contemporaneous construction put on the constitution, and the construction now given, in relation to blacks. If they had been admitted to the right of suffrage, we should have seen them rushing to the polls, embodied with our militia, and serving on our juries.

The right of suffrage ought to be the privilege of white citizens alone. And where is the injustice? The blacks came here fugitives from slavery, reeking from the chains of personal bondage. Is it not enough that they are protected by our laws? Are we bound to do more for them than for the English or German emigrant, who comes into our state, and from whom we ourselves have descended, remotely and proximately? How is it with these emigrants? Is the right of suffrage bestowed upon them without a servitude of seven years, and the process of naturalization after oaths have been filed? Viewing the question as a statesman, and not as connected with any themes of the equality of the human race,—what have we to require of slaves, who come here as fugitives from bondage? Nothing. Every citizen of the state, of one year's residence, who has paid his tax, is entitled to vote. While the Englishman, the German, the Frenchman, who come into the state, must serve seven years, before they can be permitted to vote.

He did not think the argument sound, which requires us then to open the polls to all these blacks. He shuddered at the consequences of throwing open our polls, to all who might come here to exercise the right of suffrage. He thought it wiser not to incur the risk of having our institutions controlled, by a race to which we do not belong. No one denies the possession of intellect and virtue to the blacks; but I require more than this—while we resist all association with them in private life, and repel the idea of intermarriage with the race, and amalgamation with them—to induce me to give them the right of suffrage, and to run the risk, however remote it may be, of having the government of this state in the hands of the African race—that they should exercise control over its administration.

It is enough surely, that when this race is brought to the shores of the United States, and placed in bondage, that we restore them to the condition of men, and confer on them the blessings of liberty. We are not bound to give him political rights, which may enable them, at some future day, to wrest the government from the hands of the descendants of those who founded it. His course, therefore, was influenced by considerations connected with the safety and prosperity of the commonwealth. The question ought to be considered under such views, and not in reference to any wild notions of humanity. What would be the consequence of all these slaves being permitted to run here and vote? What would be the state of feeling which it would be calculated to give rise to between them and the white citizens, whose privileges would thus be trenching on? The inevitable result would be, that the blacks must go to the wall, as the weaker party; and this would bring about a condition of things, fruitful of evils, similar to that which exists in the southern states, where parties would be divided, not according to political views, or any of the great principles of government, but solely and exclusively with reference to colour.

He desired to see every gentleman here, acting on statesman-like principles. He could not conceive how any one could wish to see an indiscriminate mixture of whites and blacks, and particularly at a time, too, when the prejudice of the community ran so high against the latter description of persons.

He was entirely at a loss to perceive how they could reconcile the idea of the two parties going to the polls together, for the purpose of depositing their votes in the same ballot boxes. He knew certain parts of Pennsylvania, in which such an attempt could not possibly be made, without bloodshed. There were certain districts in this state, where the prejudice entertained towards the blacks, was so strong, that he firmly believed if they were to go in a body, to exercise the privilege of voting, the effort would be attended with actual physical resistance. And, under whatever laws we might pass, or constitutions make, it would be in vain for the blacks to attempt to exercise the right of voting, until that prejudice felt by the white population generally, was extinct. Scenes of riot and bloodshed would most assuredly follow.

He knew of no principles of religion; he knew of no principles of humanity; he knew of no principles of civil freedom, which made it imperative upon this body to adopt such a course, as must inevitably lead to such results as he had described.

If we viewed this as a political question, and as a political right, he thought it would be apparent that it became our duty to give the elective franchise to those only who could enjoy it, and through the medium of whom, the peace and prosperity of society would be promoted. We should not suffer ourselves to be carried away by any vague ideas, and thus bestow the right of suffrage, indiscriminately upon a large class of men, to be followed by the consequences to which he had already adverted.

Again: we ought to consider this subject in reference to the character of Pennsylvania, as she had heretofore maintained it (he wished that he could say unanimously) as the protector and defender of the rights of the blacks. He spoke as their defender, and as one who desired the happiness of their race. He spoke, as one willing to do all that could be done, consistently with the constitution of the United States, to promote their happiness and welfare.

He asked if we did not now so represent the great body of white citizens, as that while we extended civil liberty to them at home, and kept from them the political exercise of it, we presented a more imposing front as the protectors of the whole, because our own rights were involved in the blessings we bestowed upon them? He would repeat the question—were we not likely to present a more imposing front as protectors and benefactors, than to stand merely in the character of their representatives? He wanted to know this from those who entertained a sincere desire to benefit the coloured men—from those gentlemen on this floor, who had expressed their views in opposition to those which he had advanced. He desired to know from those who advocated the granting of the right of suffrage to the negro, whether the influence of this state in the councils of the nation, and those of our sister states of the south would be increased or diminished, by the adoption of such a policy?

It was a very fine theory to place every man on an equality, but it did not work well in practice. The prejudices against the coloured race

were fast dying away. And, he looked forward to the time when the white citizens of this state would be willing to permit men of colour to participate in the right of suffrage, particularly those, at least, who had proved themselves worthy to exercise it. He looked forward to the time when the mass of the population of negroes in Pennsylvania, would no longer consist of those who had absolutely escaped from bondage. It was because he looked to that time, when the prejudices of the white population would, in a great measure, have died away, that he wished not to see this question pressed upon us at this time. He did not wish to see any countenance given to the doctrine lately promulgated, that the petitions of northern men—of the northern states should not be received within the walls of congress, even when on a subject within their control, as he contended was the abolition of slavery in the district of Columbia. He thought that a great error had been committed, in relation to the non-reception of petitions. But, whilst he said this, he did mean to be understood as implying that the negroes of Pennsylvania had a right to exercise the elective franchise, because he did not think they had, nor ought to have the right granted to them at present. But, as the question had been brought up for discussion, and as the constitution of Pennsylvania was regarded of doubtful construction, in reference to according the right of suffrage to the blacks, it was only proper that delegates should express their sentiments, in order that the people might know them, and adopt or reject the amendment, which would probably be submitted to them on this important question.

With regard to the insertion of the word "white" in the constitution, he had no desire to see it inserted, because he conceived it would lead to the perpetual exclusion of every man who might be a man of colour—not exactly white. He thought that was going to an extreme, and he was not willing to go to such a length. Rather than vote to insert the word "white," he would leave the question to be settled by the judicial tribunals of the state. He knew not whether other gentlemen entertained the same idea as himself, with respect to the blacks in our state. It was this:—that, since we had a coloured population, mainly brought up together in a state of slavery, and coming immediately from slavery, but who were not subject to the forms of naturalization, which our laws required emigrants from other countries to go through, we ought to prescribe by our constitution, some inducement to the blacks, to acquire some degree of education, and to provide that they shall possess the ability to maintain themselves, before being entitled to exercise the right of suffrage. He did not know that he would move an amendment to that effect: it would depend upon the vote on another motion. He would say, however, that to the blacks who came here, and by residence obtained the confidence of our fellow citizens, and acquired some education and property, he would grant, by and bye, the right of suffrage, if the people of Pennsylvania choose to grant it.

The blacks were comparatively but few in number, and would not be numerous, until such time as they possessed an equality of rights with the white citizens of this state. He would require a longer residence of them, than of emigrants who came from foreign countries. He (Mr. M.) would require, as was done by the amended constitution of New York, that a negro should be seized and possessed of a freehold estate, of th

value of two hundred and fifty dollars, above all his debts and incumbrances, one year before being allowed to vote, and have been three years an inhabitant of the state.

He (Mr. Meredith) would read the first section of the second article of the constitution of New York, as amended in 1829 :

“ Every male citizen of the age of twenty-one years, who shall have been an inhabitant of this state one year preceding any election, and for the last six months a resident of the town or county where he may offer his vote ; and shall have within the year next preceding the election, paid a tax to the state or county, assessed upon his real or personal property ; or shall by law be exempted from taxation ; or being armed or equipped according to law, shall have performed within that year, military duty in the militia of this state ; or who shall be exempted from performing militia duty in consequence of being a fireman in any city, town or village in this state. And also, every male citizen of the age of twenty-one years, who shall have been for three years next preceding such election, an inhabitant of this state, and for the last year a resident in the town or county, where he may offer his vote ; and shall have been within the last year assessed to labor upon the public highways, and shall have performed the labor, or paid an equivalent therefor, according to law ; shall be entitled to vote in the town or ward where he actually resides and not elsewhere, for all offices that now are, or hereafter may be elective by the people ; but no man of colour, unless he should have been for three years a citizen of this state, and for one year next preceding any election, shall be seized and possessed of a freehold estate of the value of two hundred and fifty dollars, over and above all debts and incumbrances charged thereon ; and shall have been actually rated and paid a tax thereon shall be entitled to vote at such election. And no person of colour shall be subject to direct taxation, unless he shall be seized and possessed of such real estate as aforesaid.”

Now, he thought that a provision to that effect would meet the case fairly and fully, and to the extent to which it ought to be met. It would show that prejudices had begun to subside, and that the people were willing to bestow the right of suffrage on those whose are worthy to exercise it. He would have no objection to vote for a provision of this kind, but he would much prefer the amendment which a colleague of his was about to offer, which would confine the right of suffrage to the whites, leaving it with them to say when it would be proper to extend it to the coloured population.

The question would consequently be left open, to be settled at some future day, when the general voice should demand it—when the feelings of the people were favorable to granting the privilege, and when they would regard it as not productive of those consequences, which were apprehended would occur if it was now to be given. The day was not distant when the right of voting would be granted to the negroes, but he was sure it had not yet arrived when it could be done with safety. All the arguments on this subject, applied to the people, as a mass, went irresistibly, in his opinion, to show that the best course would be to extend the privileges of the blacks through the legislature. Whenever the people should think proper to do so, whether in ten, twenty, thirty or fifty

years hence, according as they improved in morals, education and general fitness to exercise the right of voting.

In the remarks he had made, he spoke of the blacks without prejudice. He believed that among them there were to be found some who possessed strong intellect. Indeed, he knew the fact. But, as a mass, they could not be considered as advanced in education, or in a knowledge of political principles; for they had not had opportunities offered them of acquiring information. The whole ground and scope of their politics, if they had any—and it was natural enough—was a desire to relieve their brethren of the south from bondage. Now, knowing this to be their feeling, as a mass, and that they would at the present time, be apt to act without regard to consequences, it would be unwise and impolitic to give them the right of voting. Besides, we are under a most solemn compact not to interfere in the domestic affairs of the people of the south—not to take any measures to release the blacks from bondage. As long as the constitution of the United States remained in force, we were bound rather to guard the rights of the south, than to do any thing to impair them. He was not an abolitionist, in the sense in which the term was now used, but as it was formerly. No man would rejoice more than he should do, to see slavery abolished in all parts of the Union, if it could be done consistently with the constitution of the United States. No man would like to see congress abolish slavery, and the slave trade in the District of Columbia, over which they had jurisdiction, more than he. No man had seen, with more indignation than he had done, the refusal of congress to receive our petitions on that subject. However willing he might be to see the general emancipation of the blacks in the south, he could not give his assent to any violation of the constitution of the United States, either in letter or spirit. He could not advocate any interference with the rights of other members of this confederacy. He hoped that he was fully understood. In the language to which he had given utterance, he had endeavored to condense his ideas as closely as he possibly could, and he had only to hope that he had been distinctly understood. He would briefly repeat, that he considered the right of suffrage should be treated simply as a political question, to be settled with a view to the peace and prosperity of the commonwealth.

He denied that the right of suffrage depended upon other than political considerations; although he admitted that it was a right which should be granted, when it could be done consistently with the safety of the whole community. There were hundreds of whites who stood precisely in the same position as the blacks, in reference to the right of suffrage. Notwithstanding the practice which had obtained in the state of Pennsylvania for the last half century, and although the judicial decisions which had been made, were against the negroes having the right to vote, yet he did not desire to see a permanent exclusion of them from a participation in the elective franchise, made in the constitution now undergoing amendment.

As he had already said, he did not wish the right granted to the mass of them, but only those who possessed intelligence and property. He did not think there would be any objection on the part of the white population, generally, to this. He certainly had never heard any. On the other

hand, he desired that something should be inserted in the constitution, either that they should not have the right of suffrage, or that they should upon complying with certain conditions, and being possessed of the necessary qualifications. He thought this might be done without interfering with the general principle that was advocated. He hoped that one of the two courses which he had pointed out, might be adopted. He would not now say what vote he would give, if he voted for either of them.

Mr. BIDDLE, of Philadelphia, said it had been his misfortune to differ in many particulars, in opinion, from his friend and colleague on the right, (Mr. Meredith.) In one particular, however, he cordially agreed with him, and that was, that prejudice was fast passing away in regard to the blacks. He believed that reason was resuming her just empire over passion—that, so far from being prepared, at this time, to impose restrictions, which our ancestors were unwilling to adopt, we are approximating that period of time to which his friend looked forward with pleasure when we should no longer find an unwillingness to yield all those rights (if they were rights,) to which they were entitled under the existing constitution of Pennsylvania.

He did not regard this as a time when we were called upon to introduce into our constitution any restrictions not to be found in the constitution of 1776. And he could not agree with his learned friend, that the act to which he had referred in relation to negroes, went to show that it was the understanding of the framers of the constitution of 1776, that they were not to be considered as entitled to the right of suffrage. He alluded to the act of March 1st, 1780, which was passed for the abolition of slavery, &c. The object of that act, was one in which all free men should rejoice—it was, the total extinction of slavery after a limited time, within the bounds of the state of Pennsylvania. It was not an act to restrict the provisions of the constitution of 1776; it was not an act to construe the constitution of 1776; but, it was an act perpetually to obliterate from the records of Pennsylvania, the stain of slavery. He perfectly concurred with his friend from the city, that the privilege of voting was not a universal right. But, he (Mr. B.) found it difficult to reconcile his mind to the language that “all men are created free and equal,” with a restriction of the privileges of a particular class of men, on account of their complexion. He, also, found it equally difficult to reconcile his mind to the preamble of the constitution of 1776, which declared that they had met expressly for the purpose of framing a government for the freemen of the commonwealth of Pennsylvania, without partiality for, or prejudice against, any particular class.

An enlightened friend of his who had recently returned from England and the continent of Europe, told him that he had the greatest difficulty in repelling the impression produced by the contradictory language of the constitution, with the practice under it—that when he referred to the general freedom which prevailed, and the liberality which characterized our institutions, he was universally reminded of the domestic slavery which existed in our country. The only answer that he could give to these continual references was, that the evil was inflicted upon us by our ancestors. But after a lapse of sixty-two years, and when we had an oppor-

tunity of removing all doubt, (if any existed) in reference to the language of the constitution, why should we not remove it? He asked if we could, in future, plead in extenuation of the inconsistency there was between the language of our constitution, and the practice under it, that slavery was forced upon us by our ancestors, when we had it in our power to give the negro the right of voting, and which he (Mr. B.) maintained he already possessed under the existing constitution?

It appeared to him that the objections which had been entertained in regard to the rights of our coloured population, were founded in error, and that the prejudice felt, was, as he had already observed, fast disappearing. There was, then, he apprehended, sufficient reason to show now that the light was beginning to shine upon us, and that we ought not to go back to the days of darkness, and introduce a provision which in 1776, and 1790, was not deemed necessary. He would ask, if any thing had happened in that long interval of time which called for a change restricting the right of the coloured population? Had the public voice demanded it? He could say that up to the time of the assembling of this convention, it had not. Was it called for by any recent circumstance? Surely it could not be called for by the late judicial decisions, which were made in conformity with the view taken of the subject by the delegate who had offered the amendment now before the convention. He asked if this body desired to transform itself into a judicial tribunal? Whether it ought to undertake to expound the constitution, and whether it was its duty to do so? Was it not altogether foreign to the purposes for which the convention was assembled? He hoped that stronger reasons would be given than had yet been adduced, to show that we had a right to put a construction on the constitution of 1776, utterly irreconcilable with the broad principles now laid down, and with the Declaration of Independence.

But, we had been asked if we would violate the provisions of the constitution of the United States? There was not an individual present, more firmly attached to that constitution than he was; nor was there one who prayed more fervently that it would long continue as a bond of union, dispensing innumerable blessings among us. He must deny, however, that any violation of the principles of that constitution, had been committed. That constitution left to each state of the Union the right of determining who should be a citizen of the Union, and enjoy the right of suffrage within their respective limits. It was a power never claimed by congress, and a power, too, the states never yet yielded. But, would gentlemen, he asked, go so far as to say that there was any compact on this subject? Let him point to the south. He would tell gentlemen, then, that in North Carolina, the right to exercise the elective franchise, by a free black man, existed. Yes! in the midst of slavery, the principle prevailed! The constitution of that state required only—without making any distinction as to colour,—that a man should be free, and possess a certain amount of property, to entitle him to exercise all the privileges of a freeman.

Mr. MEREDITH explained that he had argued that the blacks of Pennsylvania should have the right of voting granted them under like circumstances, when they were better prepared to exercise it than at present.

But, that inasmuch as there was a desire felt on the part of the blacks—and a very natural one—to relieve their brethren in bondage, and as our legislature was prohibited by the constitution of the United States, from taking any step to obtain that end, we could not grant them the right of suffrage now, without, perhaps, endangering the peace and safety of society.

Mr. BIDDLE said, he accepted, with pleasure, the explanation of his friend. He had supposed the gentleman took a broader view of the question than he designed to do. Then, it appeared that there would be reason to apprehend that riot and confusion, and a total disorganization of the elements of society would ensue, if the negroes were allowed the exercise of a right which the gentleman himself trusted we should all be prepared to see them enjoy in a few years hence. He believed that the people of our land, notwithstanding that we had sometimes seen among them some acts of insubordination, and a total disregard of all law, were notwithstanding, lovers of order and law. He entertained no fears of the public tranquillity being disturbed by the attainment of the end which he (Mr. B.) had in view. He was one of those who would adhere to the constitution of 1790.

He would ask the gentleman, who sat in front of him (Mr. Sterigere) where he found authority for the remark which he made last night, that the framers of the constitution refused to insert the word "white?" Now, he (Mr. B.) found nothing to sustain that assertion in the notes of their proceedings. But there was a gentleman now within these walls, who was present during the debates in the convention of 1789, and he had told him (Mr. B.) that he remembered no proposition of the kind being made. Believing this question to be deeply interesting to every American citizen who believed in the principles set forth in the Declaration of Independence, he should feel himself bound to adhere to the present constitution.

Mr. STERIGERE said he rose with considerable reluctance to address the convention, immediately after the able and eloquent speeches of the two gentlemen from the city, (Mr. Meredith and Mr. Biddle) to whom he always listened with great pleasure.

The argument of the former was able and conclusive, in his opinion, and he thought must have carried conviction to every mind. He regretted, however, to hear the gentleman conclude his speech with a proposition to allow the blacks to vote on the qualification of a residence of three years, and ownership of two hundred and fifty dollars worth of property.

If the reasons, which he has so forcibly urged for excluding the coloured population of this state from voting at our elections, and participating in the government of the commonwealth be correct and true, the circumstances of residing among us three years, and being worth two hundred and fifty dollars, will not remove the objections. This will neither change their nature nor the colour. It will not remove their prejudices and antipathies of the white population, nor their repugnance to any association with the blacks. The objections to negro suffrage would be just as strong if each had the qualifications proposed.

I am, said Mr. S., peculiarly situated in regard to this amendment. I

was the first in this body to propose an amendment to the constitution, to give the right of suffrage to white persons only. This was placed on our files on the 12th of May last.

When this article was under consideration in committee of the whole, I proposed an amendment, which among other things, confined the right of voting to white persons. A motion was made by the delegate from Bucks, (Mr. Jenks) to strike out the word white, and, on this motion, considerable debate arose. The motion of the delegate from Bucks was withdrawn, at the request of a delegate from Chester, (Mr. Bell) and then with an understanding with the mover of the present amendment (Mr. Martin) that he should immediately move to re-insert the word "white," in order to get a distinct vote on this question, I modified the amendment so as to leave out that word.

The motion to re-insert the word "white" was made, but was declared to be out of order and not received, and the question was subsequently brought up in the shape of a proviso, which was negatived by a vote of 49 to 61. I therefore feel some solicitude for the success of an amendment I was the first to propose.

The debate on the amendment in committee, brought a memorial from about eighty negroes of Pittsburg, who declared that in regard to industry sobriety, and some of the highest virtues, they were superior to any class of citizens in that city.

A motion to print this memorial, produced an animated discussion, in which negro suffrage was declared to be secured by the constitution, and its policy advocated. These debates and the avowal of these doctrines by respectable delegates in the convention, drew the attention of the people to this matter. They were startled at the opinions expressed and the vote given in committee. The whole community became, in some measure, excited. After our adjournment in July, I passed through near half the counties in the state, and found opposition to negro suffrage, was almost unanimous. Persons, of all parties, expressed the strongest objection to any political association with this class of our population. There can be no mistaking public opinion on this subject.

The people of this state are for continuing this commonwealth, what it always has been, a political community of white persons. This is manifest from the mass of petitions that are presented here daily; the resolutions passed at public meetings; the tone of the papers in all parts of the state, and from letters received from almost every county. The people of my own county, of all parties, with few exceptions, are opposed to investing our own negroes with this valuable right, and to a policy which will bring upon us hords of negroes from other states, to participate in the privileges which have been enjoyed by white freemen only, for upwards of one hundred and fifty years.

Perhaps, but for our action on the provision of the constitution now, when a modern construction is attempted to be given to that instrument, and these negro pretensions are countenanced and urged, there would be but little danger of their claims being allowed. But no matter what construction would, under other circumstances, be given to this section by the proper tribunals, a refusal by this convention to exclude negroes from the

right of voting, would give an interpretation in favor of such right, which perhaps, no court would feel at liberty to disregard.

Hence, what under other circumstances might be immaterial, has become a matter of importance now. Those who oppose this amendment feel the force of these considerations. There is, therefore, the utmost necessity of putting this matter at rest, by a constitutional provision, so clear, that it cannot be misconstrued by our election tribunals, and which will prevent a construction modern abolition is attempting to establish. It would be improper to leave this to the judicial tribunals to settle and determine.

That the black population never had a right to vote in this state, is to my mind clear beyond doubt. If so, the proposed amendment would be merely declaratory, and in that view it could not be objectionable to any one.

If negroes have now a right to vote, public opinion and good policy require they should have it no longer. Our own safety, and a proper regard for the interests of our fellow citizens in other states, imperatively demand a positive and express prohibition of negro suffrage. A conviction that blacks never had this right in Pennsylvania, is with me an argument of great weight in favor of the amendment.

A brief examination will show that no black man in Pennsylvania, has now a right to vote. To entitle him to this privilege, he must be a citizen and a freeman in the sense in which these terms are used in the constitution.

The first section of the third article says:

"In elections by the citizens, every freeman of the age of twenty-one years, having resided in the state two years next before the election, and within that time paid a state or county tax, which shall have been assessed at least two years before the election, shall enjoy the right of an elector." Hence, if a negro be not a citizen and a freeman, he is not entitled to a vote.

From the first settlement of this province to 1790, the term freeman was used to designate those who were to exercise the right of suffrage. The convention of 1790, added the word "citizen," evidently borrowed from the constitution of the United States, which had just been ratified, and to its meaning in that instrument, we are necessarily referred to ascertain the sense of the term in our own constitution.

A citizen is one who enjoys all political rights, and is liable to all political duties—one who has the right of electing and of being elected to office. "Citizenship embraces the whole circle of public dignities and private privileges."

Mr. Rawle, in his commentaries on the constitution, page eighty says:

"In a republic, the sovereignty resides essentially in the people. Those only who compose the people, and partake of this sovereignty, are citizens. They alone can elect and be elected to public offices, and of course they only can exercise authority in the community. They

possess an unqualified right to the enjoyment of property and personal immunity—they are bound to adhere to it in peace, to defend it in war.”

Hence, he who cannot be elected to office and is not required to defend his country in war, is destitute of two of the most essential attributes of citizenship.

By all the legislation of congress from the formation of the United States, constitution to the present time, it is apparent the word “citizen” did not comprehend any but white persons. The naturalization law passed the 26th of March, 1790,—by the first congress which met under the constitution, many of whose members had been members of the convention, and approved by General Washington, who presided in the convention, and the naturalization laws passed on the 29th of January, 1795, 18th of June, 1798, 14th of April, 1802, 26th of March, 1804, 22d of March, 1816, 26th of May, 1824, and 24th of May, 1828, all authorize the naturalization of “free white persons” only.

The act of congress passed the 8th of May, 1792, for the organization of the militia of the United States, which has been in force ever since, authorizes the enrolment of “white male citizens” only, and negroes were never required to “defend the country in war.”

The act incorporating the city of Washington, gives the right of voting to white persons only.

These acts show the definition given to the word “citizen” by the best authority. The people of the United States did not understand the black population to be citizens. They have never been recognized as such.

Another circumstance showing the sense of this word in the constitution of the United States, is the fact that nine of the thirteen states, which formed and ratified that instrument were then slave states, in which free negroes had no political privileges. It is, therefore, preposterous to suppose the framers of the constitution meant to embrace free negroes in the term “citizens.”

The free negroes had no participation, directly or indirectly, by voting for delegates to the convention to form that instrument, or to ratify it.

In the states of New Hampshire and Vermont, where the electors are designated by the terms “male citizens,” or “male inhabitants” only, the right of the elector and citizen is, to be elected to office; a right which has never been claimed or allowed to a black man. Hence, a black man in these states even, is not considered an elector.

In eighteen states of this Union, blacks are expressly excluded. In New York no black man can vote, unless he has resided there three years, and is worth two hundred and fifty dollars. In no state has a black man ever been allowed to hold an office. They have, therefore, never been citizens in the constitutional sense of the term in any state.

I mention these things to show there has been no disposition to incorporate the blacks with the white population any where, and that

in the construction of doubtful provisions, the construction should be adverse to their political rights, as being more congenial to our political institutions. This term received a judicial construction by the court of appeals, of Kentucky, in 1822: I. Littell's Reports, 333, where it was decided not to include free blacks. Also, in Connecticut in 1833, when Chief Justice Daggett also decided that free blacks were not "citizens within the meaning of the term as used in the the constitution of the United States." 2d, Kent's Commentaries, p. 258 n. and recently the court of common pleas of Bucks county, has made a like decision, which, from the high legal talents and character of the President Judge, (Fox,) is entitled to the highest regard.

Hence, neither the understanding of the people of the United States, nor of congress, nor the judicial tribunals before which it has been considered, does the term "citizen" in the constitution of the United States, include free blacks; and consequently they are not citizens within the meaning of the same term used in the constitution of Pennsylvania.

But, under our constitution to be entitled to vote, a person must also be a "freeman." This term is used in the charter granted to William Penn, at the first settlement of the province—in the frame of government formed by him—in the laws agreed upon in England—in the constitution of 1776, and in that of 1790, to designate the persons who were to "partake of the sovereignty,"—"to elect and be elected to office"—and "to defend the state in time of war."

By the charter granted to Penn, March 11th, 1681, he, with the consent of the freemen of the company, was authorized to make laws for the government of the country; and to maintain its peace, &c. The associates of William Penn, who formed this company of adventurers, these freemen were white men, and the term could then apply to none others.

By the frame of government formed by Penn the 25th of April, 1682, the government was to consist of the governor and freemen. The freemen were to choose from among themselves a council, and also a general assembly. The style of the laws was: "By the governor, with the assent of the freemen in general assembly met," &c.

By the laws agreed on in England the 5th of May, 1682, the charter to the freemen was confirmed—all trials were to be by twelve men—all criminal complaints were first to be found by a grand jury of twenty-four men. Reasonable challenges were to be allowed, &c.

On the 2d of April, 1683, another frame of government was made. The same privileges were granted to the freemen as in the former. They were to choose a council and assembly, and the style of the laws, was to be the same as in the former frame of government.

The 28th of October, 1701, Penn granted a charter of privileges, which provides as the others did, that there should be an assembly chosen by the freemen, which should have "all the powers and privileges of free born subjects."

The freemen were to elect sheriffs and coroners, &c. The style was, "by the governor, with the consent and approbation of the freemen, in general assembly met."

In 1700, an act was passed entitled—"an act of privileges to a freeman." This enacted, "that no freeman of this province shall be taken, or imprisoned, or dis-seized of his freehold or liberties, or be out lawed or exiled, or any other way hurt, damnified or destroyed, nor be tried or condemned, but by the lawful judgment of his twelve equals." Acts were passed with the same provisions, in 1710 and 1715.

On the 28th of September, 1776, a constitution was formed. The sixth section of chapter second, provides, "that every freeman of the full age of twenty-one years," &c. "shall enjoy the rights of an elector."

This instrument used the same term which had been previously used to designate the persons entitled to the right of suffrage. It provided that the commonwealth should be governed by an assembly of the representatives of the freemen, &c., to be chosen by the freemen of the commonwealth. It provided that "the freemen of the commonwealth, and their sons, should be trained and armed for its defence"—that trial by jury should be as theretofore—that the people should have a right to bear arms for the defence of themselves and the state.

This constitution continued in force till the present one was adopted in 1790, in which the term "freeman," in connexion with that of "citizen," is used to designate those who were to exercise the right of voting. It also secures the right of trial by jury, and contains an injunction, that "the freemen of the commonwealth shall be armed and disciplined for its defence."

The term freeman seems to be cautiously used in all these instruments and laws, to prevent misconstruction; and that it was always used in its original sense, cannot be doubted. To these 'freemen,' the most valuable rights and privileges, were expressly guarantied. If there could be any doubt, from the word itself, its meaning is shown by the legislation of the state.

Under the injunction of the provisions of the constitutions of 1776 and 1790, to arm and discipline the freemen of the commonwealth, the legislature which was to carry this into effect, on the 10th of March, 1777, and at various other times subsequently thereto, to the present time, passed laws for the regulation of the militia of the commonwealth, by which "white male persons" only, were authorized to be enrolled. No black man was ever called on to perform militia duty.

On the 13th of June, 1777—the 12th of October, 1777—the 1st of April, 1778—the 10th of September, 1778—the 5th of December, 1778, and the 1st of October, 1779, acts of assembly were passed, commonly called test laws, requiring the "white inhabitants of the state," to take an oath of allegiance; but no black person was required to take any such oath.

The act of April, 1778, prohibited any person from voting who had not taken the oath of allegiance, and the judges were liable to a fine of one hundred pounds, for taking the vote of any person who had not taken such oath.

The act of December, 1768, excludes persons who had not taken the oath of allegiance, from electing or being elected, or holding any office or place of trust; and gives to a stranger, coming from beyond seas, who became qualified by age, residence, and payment of taxes, "the privileges of a freeman," on taking such oath.

As the oath could only be taken by "white inhabitants," no foreigner, not a white person, could become a "freeman;" and none but white persons could "elect or be elected," or "hold any office or place of trust," or "enjoy the rights of an elector."

As these laws were passed immediately after the adoption of the constitution of 1776, and by an assembly including a large number of the framers of that instrument, they must be conclusive evidence that black persons are not intended to be included in the term freeman. By these acts, the legislature has defined the term "freeman," to mean a "white man," and his rights, liberties and privileges, we have seen, were guarded with the most sedulous care.

Let us see what, during the same period, was the condition of free negroes.

In 1705, "an act for the trial of negroes," was passed. This act authorized two justices of the peace, and six freeholders, to try any "negro or negroes," for all capital offences—to pass judgment, and order his execution, for all offences punishable with death, which the sheriff was bound to carry into effect; and the justices, sheriffs, and freeholders, were liable to heavy penalties for neglecting or delaying their duty.

In offences, not capital, such negroes were to be punished with lashes, branded, and exported, not to return under penalty of death. For misdemeanors, they were punishable with lashes.

This act prohibited any negro from carrying arms, clubs, or other weapons, on pain of being punished with lashes on his bare back. It also prohibited negroes from meeting together in numbers exceeding four, under the penalty of being publicly whipped, at the discretion of a justice of the peace.

Another "act for the better regulation of negroes," &c., passed in 1725, provides that if any negro, who may be owned by any person as a slave, shall be executed for any capital offence, he shall be valued, and his owner paid out of the fund arising from duties laid on negroes imported into the province; and the importation of negroes who had been transported for any crime, was prohibited under heavy penalties. Persons setting negroes free, were bound to give security for their maintenance—because, as the act says, "it is found, by experientiae, that free negroes are an idle, slothful people, and afford ill examples to other negroes."

Free negroes, fit and able to work, who should misspend their time, were liable to be bound out by two justices of the peace. The children of free negroes might be bound out by the overseers—males to twenty-four years of age, females to twenty-one.

Free negroes were punishable by fine and with lashes, for harboring any slaves, or trading with them; and in case of inability to pay the fines, they were to make satisfaction by servitude.

Ministers and magistrates were prohibited from marrying negroes with white persons under a penalty of £100 for each offence, and every negro who should marry a white person, was liable to be sold as a slave for life.

Any negro found tippling or drinking near a tavern, or absent from home after nine o'clock at night, was liable to be punished with lashes.

Acts were passed in 1720, and 1740, for prohibiting small offences; and if any white person committed the offence, it was punishable with fine; if a black person committed the like offence, he was punished with lashes.

Laws were also passed, laying a duty on negroes imported. All these laws remained in force till 1780. For one hundred years before, no negro was allowed a trial by jury—while, during the same period, the white inhabitants enjoyed this, and all the rights of British subjects, or American freemen, and were secured in their life, liberty and property.

The white and the free black population, were governed by different laws. The former were called freemen, and the latter, free negroes, and were considered as an inferior and degraded caste.

From this history, it is impossible to believe that free blacks were ever entitled to the right of suffrage in this state. The laws relative to negroes, are inconsistent with the rights secured to the freemen of the commonwealth, and with the exercise of the right of suffrage.

The act of 1780, for the gradual abolition of slavery, confers no rights or privileges on free blacks or negroes, which they did not enjoy before, except trial by jury; nor does it give to any blacks who might become free under its provisions, any greater, or other rights, than other free blacks. It only intended to abolish slavery—to release the African race from personal thralldom, and, as the preamble says, “to give them some of the blessings to which they were by nature entitled,” and to “extend a portion of the freedom” which was enjoyed by the freemen of the commonwealth. It confers no privileges of citizenship. It operates as a mere manumission only, and confers no right, on any slave who might become free by its provisions, that the manumission of the master would not confer. And this was the construction put on this act by the court of appeals of Kentucky, in 1822.

Whether the legislature could have conferred the right of suffrage on persons who had not enjoyed it before, is doubtful. It is enough that they did not do so, nor intend to do so. It does not speak of negroes as citizens, and settles nothing in favor of negro suffrage. This was, however, an exercise of the legislative authority, which may repeal the law, by which the old laws would be revived, and the negroes reduced to the same abject condition, as before 1780.

From this history, it is clear, negroes have no right to vote under the present constitution. The question, therefore, is not one of depriving the coloured population of the right of suffrage, but one of extending it to them.

To adopt the amendment, will be merely declaring plainly what was the meaning of a single term in the constitution, of apparent doubtful import, and carrying out the intention of the wise men who framed that instrument, and will prevent an interpretation which is attempting to be given to it. The rejection of this amendment would be tantamount to expressly conferring the right of suffrage on negroes.

If negroes even have the right of voting under the present constitution, they should hereafter be excluded from that privilege. They are physically and morally an inferior species of population. They are incompetent by nature, and more so by the circumstances in which they are placed, to exercise this valuable privilege.

Whether negroes are a different species from the white man, and only a link in the chain of being, connecting the white race with some one of inferior rank to themselves, has not been settled by philosophers and naturalists. The God of nature has made them a distinct, inferior caste, and placed a mark on them too visible to be disregarded. The evidence of their inferiority is seen every where. All our observation confirms this opinion, and we look around us in vain for a contradiction. We see them engaged in no business that requires even ordinary capacity; in no enterprizes requiring talents to conduct them. The mass are improvident, and seek the lowest avocations, and most menial stations.

They are also a debased and degraded portion of our population. They are so every where. This is admitted on this floor. It is admitted in the petition which has been presented to this body in their behalf. All attempts to elevate them have proved abortive. They seem to have no desire to be elevated. The mass are ignorant and debased. One half of the tenants of our jails and penitentiaries, are blacks.

They have never been considered fit to exercise political rights any where. Judge Kent, in his commentaries, volume two, page 258, says:

“There is a distinction in respect to political privileges, between free white persons, and free colored persons of African blood, and in no part of the country do the latter, in point of fact, participate equally with the whites in the exercise of civil and political rights. They are essentially a degraded caste, of inferior rank and condition in society.”

From their habits, education, and their business, they must be dependent upon, and under, the dominion of others, and must necessarily be the dupes of others. The laws of nature and society are too fixed to change this condition.

It is said this degraded condition is the result of circumstances. That does not remove the objection to conferring the right of suffrage on them. Is it proper to confer this important right—this valued privilege of freemen, upon such an inferior, low, degraded and ignorant mass, as our black population? Is the right of suffrage so little prized by us, that we are willing to share it with the scum and outcasts of the negro population of other states, who may come and live among us one year?

The gentleman from Allegheny, (Mr. Forward) tells us that a large portion of the white votable population, are as degraded and ignorant as

the blacks. In this I am sure he is mistaken. If it were true, however, it is no reason why we should increase this evil by adding ten thousand negro voters.

If the black population had sufficient capacity to exercise the right of voting, their colour and other circumstances must prevent any amalgamation or association with the white population. Our nature revolts at the idea of such association. We may reason in vain against the natural prejudices we feel to this race—the voice of nature will not be drowned.

It is an insult to the white man to propose this association, and ask him to go to the polls, and exercise the right of a freeman with negroes. Our antipathies are too great to allow such an association, and if attempted, will produce conflicts and bloodshed at our elections, where all must meet, and on the same day.

But what is to be the effect of this negro suffrage? The memorial presented on behalf of the coloured people, says that the effect of this amendment would be to deprive 40,000 of their rights. I presume that is about the number of blacks in this state. This number would produce 10,000 voters. These will, in the mass, join one of the great political parties, or be controlled by some political demagogue, or modern abolitionist, and must become the umpire between the two great political parties of the state.

I ask, is there any delegate on this floor, no matter how high his party feelings may run—no matter how anxious he may be for the success of his party, who will avow he would desire to succeed by the aid of negro votes?

But our apprehensions cannot be confined to our own black population. Give negroes the right of voting here, and you will invite the black outcasts and worthless vagrants, of other states, to settle among us, and become our fellow citizens; and such will be the men who may hereafter decide who shall be our governors, congressmen, members of assembly, &c.

There are now, according to the best estimation, between three and four hundred thousand free blacks in the southern states, and at least 100,000 in Virginia and Maryland alone.

If you give free negroes the right to vote, will they go to Ohio, where they must give security for their good behavior, or to New York, where they must reside three years, and be worth \$250 before they can exercise the right of suffrage, or go to, or remain in Virginia, Maryland, or New Jersey, where they have no rights? Certainly not. Reject this amendment, and we shall have tens and hundreds of thousands of this base and degraded caste, vomited upon us.

There is a natural tendency of persons who think and feel alike, to locate themselves in settlements together. This has been the case with many of the religious sects in this state. The natural sympathy of negroes for each other, would induce them to congregate together and act together. They may themselves hold a majority of the votes in the townships and counties in which they may settle, and may not only elect

whom they please, but elect themselves, and thus obtain the management of township and county affairs. This would present a beautiful specimen of republican government.

The southern gentleman who has manumitted his slaves, and sent them to Pennsylvania, might, in a few years, meet them in the halls of congress, occupying seats along side of him, and taking a part in the national councils. This is no picture of fancy. A policy that may produce such consequences, cannot, for a moment, be thought of.

Another effect of admitting negroes to vote, will be, to keep respectable citizens, who have a deep interest in the administration of the government, from the elections. Such persons will not go the polls and jostle with negroes. You will then have, as substitutes for such persons, a posse of shoeblacks. It is horrible to contemplate this matter in any point of view. Instead of bringing these things upon us, we should guard against them by prohibiting the emigration of negroes into this state.

But for whose good are the blacks to be allowed to vote? Is it for the benefit of the white population? It has not been shown that their interest can, in any way, be subserved by this. The negroes would be of no more benefit to society then, than now. Nor has it been shown that the blacks themselves will derive any benefit from their change. As a class, they, from their condition, will long be what they now are, and always have been. The attempt to exercise this right, will bring them into conflicts, and can avail them nothing, unless they can get their control. So far from its being beneficial, it will be a serious evil to them. While I am unwilling this class of our population shall exercise any political privilege, I will allow them all the protection for their persons, liberties and property, that the white population enjoy.

The gentleman from the city, (Mr. Biddle) as well as the gentleman from Mifflin, (Mr. Maclay) has reminded us of the declaration, in our Declaration of Independence, and our Bill of Rights, "that all men are created equal, and have certain inherent and inalienable rights," &c. and asks, "do you intend to violate these rights, and disregard the very principles of our revolution?" The amendment in no wise conflicts with the doctrine avowed in those instruments. That all men are born free and equal, and are endowed by nature with certain inalienable rights, such as life, liberty, &c., no one disputes. These are the fundamental rights which belong to a man from his birth, in all countries and under all governments. They are not civil or political rights. These depend on the constitutions and forms of government, in the country in which individuals reside.

The right of voting is a political, not a natural right, else it might be exercised in all countries, by persons of all ages, sexes, colours and conditions; by foreigners, whether naturalized or not, as well as citizens, without regard to residence, payment of taxes, or any thing else.

The gentleman from Allegheny, (Mr. Forward) when this article was considered in committee of the whole, showed the absurdity of the doctrine that suffrage was a natural right. His argument was then clear and conclusive. I refer to it as a complete refutation of the assertion

that this amendment is a violation of the principles of the Declaration of Independence and Bill of Rights, and hope this convention will bear this argument in their minds.

There are other considerations growing out of the relations in which we stand towards our sister states, and having a regard to the harmony of the Union, and our own future safety, which deserve a full and careful examination, and ought, of themselves, to determine our course on the present question.

[Here the PRESIDENT reminded Mr. S. that the hour had expired, and that he could not proceed further in his remarks.]

Mr. AGNEW said that he did not rise for the purpose of making an argument on this vexed question, and he only rose because he felt anxious to state to the convention, the grounds on which he intended now to give his vote. He had no doubt, too, that the same anxiety existed in the minds of a majority of the members of the convention. He assured gentlemen that he was not going to enter into this argument at any very great length, and in the few remarks he intended to make, he only wished to have his views on the subject understood here and elsewhere.

He did not think there was any danger by the old constitution, of having the right of suffrage extended, generally, to the African race; and he thought it highly injudicious in gentlemen, to agitate this question, at this particular time, because it must only add to the excitement which already exists on the subject.

What was the present constitution of the country, in relation to this question? We have seen that great dissention existed in relation to it, in our national legislature, and excitement of a frightful kind prevails throughout many of the states, on the subject. Then, why now bring it up here, unless it is for the purpose of bringing up the whole slavery question, and have a debate opened, which there is no telling when it may be determined? It seems as though this was to be made a great national question, and that this is one of the places where a part of the discussion upon it is to be had.

Do gentlemen desire here to discuss the slavery question, and the question of the admission of another state into the Union, or what is their object in now forcing this subject upon the convention? He looked upon it as being entirely improper, that an assembly, representing the freemen of Pennsylvania, should meddle with a question which had so much reference to the policy and action of many of our sister states. It was a delicate question, and should be spoken of with delicacy. We should agitate it as little as possible, and in his opinion the best mode of dispensing with the question, was for the convention, immediately to reject the amendment, and proceed with some other subject.

It was in his opinion entirely improper, that a body constituted as this body was, should meddle with a question so dangerous in its consequences as this question was. If a necessity existed for it, he would not, to be sure, hesitate to act; but there was no such necessity, and the most judicious thing for us to do, would be to pass over the question, without having any action of this body upon it.

What was it that this convention was about to do? It was about to propose to the people of Pennsylvania, a new constitution—it was about to submit amendments to the people, for their acceptance or rejection—it was about to substitute for the old, an almost entirely new government. In doing this, no man could, for a moment doubt, but there would be a strong opposition to the amendments proposed by the convention. This was a matter which ought to be taken into consideration, by all those in favor of an amended constitution. Indeed he, for his own part, was not willing to endanger those amendments which he had much at heart, by a proposition of this kind.

His opinion was, that the matter should be left rest for the present, and if any thing was necessary, let the convention adopt a resolution, declaring that it is inexpedient now to act upon the subject, and leave it as an appropriate matter for future amendments to the instrument. He believed there would not be twenty members opposed to the proposition for future amendments to the constitution; and if that was passed by this body, then this subject might be acted upon by the people, at their pleasure. The friends of the present proposition, had expressed a wish and a hope, that this question might be acted upon free, separate and apart, from all foreign influence, and extraneous matters. If they were in earnest in this hope, he thought they ought to adopt the course indicated by himself, and pass over this question for the present, as that was the only way that it ever could be passed upon without having foreign influences to operate upon it.

If the amendment, in relation to future amendments to the constitution, was adopted, as he had no doubt it would be, then a proposition of this kind can hereafter be brought forward separately from all other matter, and a free and unbiassed expression of the opinion of the people can be had upon it. He would, therefore, urge it upon those gentlemen who had a proposition of this kind most at heart, not to press it upon the convention now, but permit it to remain over for the present; and he had no doubt that it might be acted upon in a manner satisfactory to the people of this commonwealth, and of the whole United States, in two or three years.

Gentlemen need not have any apprehensions of this question operating upon the present right of the negro to vote, because the convention may adopt a resolution, such as he had alluded to, and then no inference or opinions could be drawn, as to the action or want of action, of the body upon this proposition. This, he presumed, without any reference to the decision of the supreme court, which it is supposed will be made in a short time, on the subject of the right of negroes to vote in the commonwealth of Pennsylvania.

Every gentleman here was aware, that there was a case depending before the supreme court of the state, which when acted upon, might be decisive of the question. This was the course which he would recommend, as tending to get rid of much difficulty and embarrassment. But he would take occasion, while up, to give it as his own opinion, that negroes had not a right to vote by the constitution of Pennsylvania. This opinion he gave freely, without reference to any thing that had been said on the subject, or any authorities which had been here produced, by those in favor of the amendment pending.

He had nothing more to say, as to the propriety of extending the right of suffrage to these people, and merely gave it as his belief, that under the constitution of 1790, they could not vote. He thought this question might be settled without reference to any agrarian doctrines, or going back to the natural rights of man, in a government of freemen. It seemed to him, that the question might be settled without much difficulty, as it became only a question of fact, with regard to the first settlement of the state of Pennsylvania.

The simple question was this—was the state of Pennsylvania settled exclusively by a nation of white men, as contradistinguished from the African race? And, was the African race prevented by law from becoming a part of the sovereignty of Pennsylvania? These were questions of fact, which it seemed to him, as only having to be determined, to be decisive of the question.

Well, sir, the history of Pennsylvania proves that the African race never were considered a part of the sovereignty of Pennsylvania. They were not looked upon as being a part of the community at all, and consequently they could have no right to vote, unless they were admitted according to the rules and ordinances of society which then existed, and which is as yet to be found in the laws and constitutions of those times. Neither the laws, nor the constitutions, nor the history of the customs of those times show, that the African race were ever permitted to take any part in the public business of the people, at that period. This, then, seemed to him to be decisive of this question.

But, some gentlemen had raised a question, as to the meaning of the word "citizen" and "freemen" in the constitution. These words, however, seemed to him only to have reference to those persons, upon whom the constitution operated, and it appeared that it never had any particular reference to the African race. This question, however, he did not intend to argue, as it seemed to him, also, to be nothing more than a question of fact, with reference to the kind of men recognized as citizens under the constitution of 1790.

These were his opinions with reference to the constitutional question, but with regard to the propriety of extending the right of suffrage to the negroes, or of withholding it from them, he considered it now improper to express an opinion.

Mr. REIGART rose to address the CHAIR, when

The committee rose, reported progress, and obtained leave to sit again ; and,

The convention adjourned.

THURSDAY AFTERNOON, JANUARY 18, 1838.

THIRD ARTICLE.

The convention resumed the second reading of the report of the committee to whom was referred the third article of the constitution, as reported by the committee of the whole.

The question being on the motion of Mr. MARTIN, of Philadelphia county, further to amend the first section, by inserting the word "white," before the word "freemen," where it occurs in the first line,—and also, by inserting the word "white," before the word "freemen," where it occurs in the seventh line,

Mr. REEART, of Lancaster, rose and addressed the President to the following effect:

Mr. President:—In attempting to discuss the merits of the present motion, I shall be obliged to introduce some topics here, which will not be very grateful to the ears of the faithful; but not numbering myself among those who are disposed to minister to the morbid sensibility of southern politicians—exclusively southern in their feelings, their attachments, and their supposed interests, I must be permitted to introduce some preliminary matter, illustrative of the subject now under consideration, which, in no small degree, influences the vote I am about to give.

What, sir, is the present condition of this Union, so far as respects our neighbors on the north and on the south?—and what is our condition as respects our present position with the southern portion of the Union?

On our southern border, our Mexican neighbors have been, and are still, engaged in a civil war. It is true there has been one general conflict, which has, for the present, resulted in the separation of the province of Texas from the Mexican government, and in the creation of a separate government for that province.

On our northern border, the Canadians are engaged in all the horrors of internal strife.

This insurrection had its rise in the heart of Canada, and among Canadians, and not in this Union among Americans. As soon, sir, as the contest assumed a tenable aspect, and while British arms were still reeking with North American blood, we have the spectacle of a southern senator, in the senate of the United States, offering to the consideration of that body, a series of resolutions to strengthen the strong arm of the executive government, which is immediately succeeded by a proclamation of neutrality by the President of the United States, denouncing offenders—threatening the most signal vengeance on all who violate our neutrality.

Here Mr. M'CAHEN called Mr. R. to order.

The **PRESIDENT** decided that Mr. R. was in order, and desired him to proceed.

Mr. REIGART resumed :

He was sorry that the delegate from the county of Philadelphia wanted that very little acuteness of intellect, which was necessary to enable him to discover how he intended to apply this argument to the subject now under consideration.

But, said Mr. R., of this proclamation of neutrality, I do not complain. Permit me, however, to contrast the course of this senator, or another southern senator, who, in his overweening anxiety for the incorporation of Texas with this Union, assumes the bold, impudent and reckless ground, that the Rio del Norte, and not the Sabine, is the true southern boundary of the United States,—and that, therefore, as a necessary consequence, Texas is a part of the territory of the United States, and this contrary to existing treaties with Mexico, and against the particular knowledge of every intelligent inhabitant of this country. But, sir, this is not all. When our citizens were marching by thousands into Texas—when our seaports resounded with the din and bustle of naval preparation, for the avowed purpose of assisting the Texians in their struggle with Mexico—when volunteers were openly sailing from almost every port in the Union, for this purpose, where then were the resolutions offered by senators to strengthen the executive government? Where then were the proclamations of neutrality? Nothing of the kind was done until the mischief had been perpetrated—not until the treaty with Mexico had been notoriously outraged—not until the people began to complain of the want of faith in the government; then, to be sure, a feeble effort was made by the government, which was alike disgraceful as it was dishonorable.

But, sir, did the course of southern policy, and southern craft, stop here? No; for immediately after the battle of San Jacinto, we find them endeavoring, in the moment of victory, and when the minds of men were flushed with victory, endeavoring to effect the recognition of the independence of Texas. Does not this show, I ask, the deep settled policy of the south; their continued perseverance—their onward march, having for their object the incorporation of Texas with this Union, and thus give to the south the preponderance in the government, and to make her the arbiter of her destinies? Would that I could stop here; but, sir, my tale is not yet told.

The south are now—yea, at this moment, forging chains for the enslavement of their northern friends—their fellow citizens, their brethren—by overthrowing the first, the last, the greatest, the dearest, the best, principle of constitutional liberty—I mean the right of petition. This sacred right, so dear to the friends of rational liberty, has recently been prostrated by the south, assisted by some recreant, degenerate sons of the north, in the legislative councils of the nation. Yes, sir, those recreant, degenerate sons of patriotic sires, in a moment of party phrenzy, urged, goaded on by corrupt partisan leaders of the south, unmindful of constitutional liberty, forgetful of the duty they owed to their country, lent themselves, passive instruments, to the arrogant, impudent, reckless pretensions of the hot bloods of the south, for the purpose of overthrowing this great principle of liberty.

Let me ask you, sir, what is the right of petition worth, if that right does not directly and irresistibly imply that the representative shall give to the petition, a calm, respectful consideration, or can it mean that the representative shall refuse to hear, or read, or to consider the prayer and petition of the constituent? Most obviously, this right means the former, or it is entirely useless,—nay, worse than useless—it would be mischievous and pernicious.

But, sir, permit me to pursue southern policy and southern arrogance, still further. We find many of the southern states have, from time to time, memorialized northern legislatures, to prevent their citizens from writing, printing, nay, almost from thinking, on the subject of domestic slavery.

In this, however, they were foiled. No northern governor, however party bound, has yet dared to recommend this to the legislature. The brave, hardy, temperate and free sons of the north, will never agree to muzzle the press, or to prevent or abridge the free interchange and communication of thoughts and opinions, on any and every subject, for the purpose of gratifying the morbid feelings of the south,—while our citizens, who, in their wanderings, reach their soil erect, and conscious of their glorious privileges of American citizenship, perhaps unmindful that they have left the soil of freedom, and are on the bloody, careworn soil of slavery, are murdered by cruel, relentless mobs of fanatics. These aggressions we are called upon not only to permit, but to applaud. We are told that southern gentlemen are high born, high minded, honorable and just. Be it so: in his private intercourse—in his social relations, he may be, and perhaps is so—but it is equally certain that the north have suffered much and great injustice from the south, and the time has come when northern men should speak plainly, “without reservation, equivocation, or mental reservation.”

Permit me now, sir, to inquire whether the north, or any other portion of the Union, have not an undoubted right to petition congress for the abolition of slavery in the District of Columbia, and the territories of the United States? Can there be any doubt on this subject? Have not congress the undoubted right to legislate for the District in every possible case? If they have not the power, who have it? Have the state of Virginia and Maryland that right? No man will deny that these states have not ceded their sovereign rights over the territory of the District, which undoubtedly included that of legislation. It follows, then, as a necessary consequence, that congress possesses the sole and exclusive right; and that body being the national legislature, the north have an equal right of representation with the south, and being as much interested in the enactment of wholesome laws for the government of that District, as the south, it follows that we may petition that body for the enactment of such laws as we may conceive to be wholesome and good. The right of petition being general, we may, therefore, if we please, petition for the abolition of slavery in that District; and I, for one, trust that this right will never be abandoned, but that our course may be honest—straight forward honesty in this matter, until the south concede that right.

Whether it be now expedient to abolish slavery in that district, or in the territories, is another and a different question. The consideration of

that question does not now necessarily arise ; nor is it now necessary for me to consider it.

The south are much mistaken, and proceed on mistaken grounds, when they accuse the north of attempting to interfere with slavery, as it exists in the southern states. The north have no idea of any such interference, however much they may deplore the existence of slavery in a democratic land, who justly boasts of her republican institutions. Our citizens do repudiate all such accusations—they deny the charge.

On this subject it is my wish to be fairly understood. I am not an abolitionist in the modern sense of the word, or in the sense in which that word seems to be used, and have nothing to do with them, and knowing nothing of their principles, I can neither applaud nor condemn them ; but I avow myself to be the friend of human rights, and if this make me an abolitionist, then I am one.

Permit me now, sir, to inquire into the reasons said to be given by those recreant, degenerate sons of the north, who voted, in effect, against the right of petition. They are said to justify their course, on the ground that a contrary course would have caused a dissolution of the Union. Is it possible ? Can such an idea obtrude itself into the most obtuse mind ?

The idea of a southern confederacy is truly most farcical and ridiculous. Why, sir, do they suppose they can make us believe they are serious ? Be assured, sir, they never will separate from us ; they will cling to us as the nursling does to the fond mother—not, to be sure, from the same affectionate motives, but they will cling to us for support and protection. The idea of a servile war is ever present to their minds. Without an army, without a navy, without trade, dependant entirely on slave labor, relying on the north for the luxuries, comforts and necessities of life. In truth, their preservation depends on the connexion. They cannot exist without it—while we can do without them, and be just as free, as powerful and great, as with them. Of all this they are well aware, and they are also well aware of the holy horror of the north at the bare mention of a dissolution of the Union. The moment, therefore, that the north do any thing to displease them, they immediately commence threatening and blustering about a dissolution of the Union. But good natured gentlemen, as they are, they always come into the fold again, after some little putting.

I am aware that we are told somewhere, that the benefits of the Union are incalculable, and that we should never make any calculations about it, but always, at all hazards, to preserve it. I am not for dissolving the Union, far from it, but would make great effort to preserve it. But as southern politicians are continually calculating on this subject, and never fail to tell us the result of their calculations, and to hold up to our *astounded senses* the vast benefits of the Union to the north, I have thought it not amiss to make these observations, just to show these gentlemen that we perfectly understand all their little manœuvres on this subject. Let the north, on this subject, be erect—let them take high ground. Let the south, if they should be serious, make the experiment—let them call their delegations from their seats in congress—let them hug the many col-

oured population of Texas to their bosoms, at their own expense, not ours.

Before, sir, they would attempt this act, at their own expense, they would beg and implore the north to forgive their indiscretion. But why speak of it—they have no intention of severing their connexion with us; but should they have such intentions—should they have the temerity to make such an attempt—should they value the benefits of the Union so highly, I would, for myself—and I speak only for myself, when I say that rather than give up the glorious right of petition, and be thus insulted, degraded and spit upon by the south, as the north have been, I would sooner be an inhabitant of a border country, in a border state, exposed to all the horrors of a border war. This, sir, may be strong language, but the occasion demands it—the time has come when plain truths should be spoken.

Of what value is the Union to us, if the right of petition be denied? If that be taken away, this glorious Union will be scarcely worth preserving. It will, sir, have lost its value in the affections of the people. It will be a rope of sand, without this inestimable right be restored to us, and the supremacy of an outraged, violated constitution, be vindicated.

I will now, sir, endeavor to confine my observations more immediately to the subject under consideration.

What is that question? It is to insert the word "white" in the first section of the third article of the constitution, and thus to exclude our coloured population from the enjoyment of every possible vestige of political right.

It is admitted that our ancestors, by force or by fraud, brought this population among us; they made them their slaves. But as soon as our Pennsylvania ancestors had freed themselves from the yoke of British tyranny, actuated by a stern sense of justice, they enacted the act of 1780, which gradually, but forever, abolished slavery within our borders.

Look, if you will, at the eloquent and glorious preamble of that act, and there perceive the free spirit of the people of this commonwealth—their fervent love of liberty, their abhorrence, their detestation of slavery.

Do gentlemen here not believe that the framers of the constitution of 1790, knew the import of the words composing this section. Do they charge them with ignorance? Do they suppose that they did not understand what they were doing? Yet, sir, we are now asked, at this late day, and in this enlightened age of the world, and after a lapse of half a century, to retrograde, (not in legislation only) but to retrograde in the fundamental laws of this ancient, this great, and this glorious commonwealth; to take from the poor, the unfortunate, unprotected, unrepresented and defenceless black man and his descendants, in all generations yet to come, the last vestige of political right. It is not enough that the colour of his skin, and the deep rooted prejudices against his race, effectually and forever debar him from all participation in the government of the country, but we must still go farther, and take from him what by implication and construction, our forefathers have given him.

The right of the coloured taxable inhabitant to vote, (if it be a right) is a very precarious one indeed ; it is rarely, if ever, exercised by them. Many learned and able jurists have doubted their right ; one able judge in Bucks county, has decided that they have no such right. The reasons, however, which he gives, would not lead my mind to the same conclusion. It seems to me there are other and more cogent reasons than those given by that judge, for coming to the same conclusion.

This vexed question is now, however, before the supreme court of Pennsylvania, for their decision. They are the proper tribunal to decide the question of constitutional right, and for myself I am willing to leave it to them, without retrograding at this late day.

But it does seem that the people have not suffered much from this constitutional ambiguity, as it has not been legally complained of until within the last year or two. I have, however, several other objections which operate on my mind against the introduction of this amendment. The first is the very indefinite meaning of the word, the great latitude of construction that it must necessarily beget, and the many different ideas it will convey to the different minds. My principal objection, however, is, that it will be viewed in the south as the triumph of southern principles in a northern state.

Yes, sir, the mere introduction will show to the south that their great leading principles on the subject of domestic slavery, have, after a lapse of more than half a century, been transplanted on the soil of a free state—cherished and nurtured by northern men.

It requires not very close observation, to have long since observed the slow, gradual, subtle policy of the past and present administrations of the general government, towards affecting this darling object of the south, and to make it appear to be the work of the north.

The lash of party has been unsparingly applied to the back of our northern politicians. Where that would not do, an occasional sop or a promise was given. When the work of degradation was complete, and when, with two honorable exceptions, the faithful had testified their adhesion, the executive issues his edict, and these degraded sons of the north assist in registering it, and then openly proclaim their devotion to the dark spirit of slavery.

It is true, sir, that the public mind has of late been divided on this subject. The people of the north were in disposed to suspect the executive, corrupt as he is, (being a northern man,) and they were slow to believe that their representatives would prove recreant. But, sir, the case will be far different when the people shall be told that their representatives assisted the south in the overthrow of constitutional liberty ; then, sir, will the slumbering energies of our citizens arouse into bold, fearless and decided action. The subtle, insidious policy of the south, will be understood. Our northern men at Washington, with southern feelings and southern politics, will be hurled from their places ; there will be violent reaction on this subject. Public opinion, like a tornado, will bear down these faithless, degenerate representatives, who have thus dared to prostitute constitutional liberty, and insult a generous, confiding people.

Let me here again take occasion to say that I am not an abolitionist, and would not attempt to interfere with slavery in the southern states. I know of none who would lend himself for any such purposes.

We are told here, sir, by some of the friends of this amendment, that there can be no doubt whatever, that under the present constitution, the blacks have no right to vote—and again, in the same breath, we are told that there is nothing in the present constitution, to prevent a black man from being elected to the legislature of Pennsylvania. Without stopping to expose the inconsistency of this argument, and without attempting to point out to him the great moral taint which such an argument must fix on the character of our citizens, I will attempt to answer the latter part of the argument, by putting a question. Let me ask that gentleman whether it would be more disgraceful to sit alongside of a black representative, than for the party to whom that gentleman belongs, to elect a man to the second office in the government of the United States, who is married to a black woman, and has a brood of mulatto children?

Some one near me says he is not married.

Why, sir, I find it fits somewhere in a high place. Let me say, in answer to the suggestion, however, that if he is not married, it is much worse than I supposed it to be; at all events, he educates, maintains and marries off his sooty progeny to white men—for which it must, by the way, be admitted he deserves some credit. But it would be a sad spectacle indeed, in the event of the demise of the President, to see the white house tenanted by this gentleman, and his tawny coloured tribe.

Gentlemen tell us that blacks are incapable of moral and mental culture. Let me refer them to children of the second officer of the government to disprove this action. They are said to be highly accomplished and very intelligent, and yet they are not white.

But, sir, I will give gentlemen other examples. Look at Hayti. We see them not only intelligent, but capable of self-government. You have opened to them your common schools. You intend to make them intelligent and learned, only that they shall feel their degradation more deeply—more poignantly.

In this city there are coloured men who are learned and eloquent divines—many of them men of property. In my own county there are some of the last class.

Yes, sir, notwithstanding all the disabilities under which this unfortunate race labor, we see some of them burst their bonds, and by their own unaided efforts, become intelligent, learned and wealthy, and make us respect them, in very spite of our deep rooted prejudices.

I will now, sir, cite what certainly will be high authority with some gentlemen here. I allude to a speech made by Mr. Van Buren, in the convention which formed the constitution of New York, on the subject which now occupies our attention.

“There were two words,” continued Mr. Van Buren, “which had come into common use with our revolutionary struggle, which contained an abridgement of our political rights—words which, at that time, had a talismanic effect—which led our fathers to the tented field—which, for seven long years of toil and suffering, had held them to their arms, and which finally conducted them to a glorious triumph:—They were *taxation and representation*. Nor did they lose their influence with the

close of that struggle. They were never held in our halls of legislation, without bringing to our recollections, the consecrated feelings of those who won our liberties, and without reminding us of every thing that was sacred in principle."

It was said here but yesterday, that they offered the strongest evidence of their continued hold upon our feelings and our judgments, by the triumph they effected over the strongest aversions and prejudices of our nature.

"On the question of continuing the right of suffrage to the poor, degraded blacks, apply" said he, "the principles that inculcate to the question under consideration, and let its merits be thereby tested. Are those of your citizens represented, whose voices are never heard in your senate? Are those citizens in any degree represented, or heard, in the formation of your courts of justice, from the highest to the lowest?"

It is unnecessary to read any more from the speech of that high public functionary. Although he might sometime ago have been good authority, yet now, that his sun is about to set, his authority is not of much value. I am aware, also, that it is quite useless to address this convention on this subject; they are determined to deprive the blacks of all political right, and deprive them of the possibility of acquiring any. The vote we are about to give, will excite great surprise every where. In the south, it will be celebrated almost with bonfires, illumination, feasting, and every demonstration of joy. In it they will see the triumph of southern principles in good old staid Pennsylvania; and we shall be obliged to witness the galling spectacle of the triumph of the dark spirit of slavery in our native state.

As to myself, I will shortly, I hope, return to my constituents, to whom, for this act of my public life, I am responsible. They have not instructed me on this, or on any other subject. They are in the habit of giving to their representatives their full confidence, untrammelled by instructions. Being thus circumstanced, I shall give my vote against the amendment, and on my return to private life, will, at all times, think of my vote with great satisfaction. on this interesting question.

Mr. M'CAHEN, of Philadelphia county, said, it had been his intention to have given his vote silently, and not to have said a word on the subject, because the gentleman from the city, (Mr. Meredith) had in a great measure anticipated his argument. The gentleman, however, had brought his address to so lame a conclusion, that he, (Mr. M'Cahen) felt himself called upon to say a few words in favor of the pending amendments. The gentleman reminded him of the homely adage of the cow, who, after giving a good bucket of milk, turned round and kicked it over. The remarks of the gentleman, he thought, must have convinced every man's mind of their correctness and truth.

He, Mr. M'C., found that certain laws of congress, as well as the constitution of the United States, made a provision which would unquestionably prevent, to a considerable extent, the right of suffrage from being extended to the coloured population of this state. The naturalization law, provided only for naturalizing "white" persons, so that only native-born negroes would be entitled to vote, while it remained in force. Besides,

the operation of it would be partial and unjust. The question now before the convention for its decision was—"shall the coloured male population of the state of Pennsylvania, be entitled to the right of suffrage, or not?" This was the true question, when stripped of all the artificial ornaments, with which it had been adorned.

He could not concur in all the arguments that had been urged, and sentiments expressed in regard to the degraded condition of the negro. He did not believe that the blacks were not civilized creatures, possessed of the same faculties, and capable of forming the same impressions as the whites.

But, it was the policy of all governments to interfere, more or less, with the political rights of some of their people. Indeed, the peace, happiness and prosperity of a community, sometimes depended upon the adoption of measures, which bore somewhat harder on one portion of the people than on the other. We all know—and the fact was adverted to by the gentleman from the city—that none but the male inhabitants of this state enjoy the right of suffrage, and that the constitution of Pennsylvania, as it now stood, only provided that they should exercise the right. With respect to the remarks which fell from his colleague, (Mr. Earle) to-day, —in conclusion of his address commenced yesterday—he would say, that they appeared to him, at least, more applicable to the question of the abolition of slavery, than to that of the right of suffrage. "Taxation and representation," said the gentleman, "should go together."

Now he, Mr. M'C., would ask the gentleman, if the white women of this commonwealth were not taxed—if they did not pay taxes on their real estate, and on the food they ate? And, whether there was not a large number of minors, who pay taxes on the property, to which they were heirs, and also, on the food they consumed, &c? He would ask the gentleman whether he did not think it good and sound policy, too, that although these women and minors pay taxes, they should be excluded from participating in the right of suffrage? He wished it to be distinctly understood, that he would do nothing to impair the rights of any individual in the commonwealth. Far was it from his intention to do any thing of that kind. It was well known that the question, as to whether or not, a coloured man is entitled to vote under the constitution of Pennsylvania, had been decided by the judicial tribunals of the commonwealth, sometimes in favor of the right, and sometimes against it.

The right of suffrage, was so important a question, that it ought not to be left for the decision of any judicial tribunal, in future. This convention ought not, on any account, to separate, until they should have decided the question, whether or not the negroes are entitled to vote. A great deal of sympathy had been shown in behalf of the poor negro, and the convention had been appealed to, in the most feeling manner, to give them the right of voting. But, the manifestation of all this sympathy and feeling, ought not to drive this convention from giving the question all the consideration and weight of which it was so well deserving.

Every gentleman in this body well knew, that petitions had been received from great numbers of our citizens *pro* and *con*, relating to the right of suffrage. It had been strongly and zealously contended, that the black pop-

slation have a right to the exercise of the elective franchise. We found, in a memorial, which had been presented from the coloured population of the city and county of Philadelphia, some days since, that they used language similar to this: "that they have been informed, a change has been proposed to be made in the constitution of this commonwealth, taking away from them, and from that portion of the citizens of this state, with whom they are identified, a right, the exercise of which they have enjoyed for forty-seven years." This was boldly asserted in their memorial. He recollected, that in the memorial which had been presented from the coloured free citizens of Pittsburg, and the vicinity, they had undertaken to draw a comparison between the morality and industry of their own people, and that of the whites, giving themselves the credit of possessing more excellent qualities than those of their white neighbors. Now, whilst on one hand, there were delegates in this convention, who thought the blacks do possess the right of voting, there were, on the other, delegates who thought otherwise, and would refuse to vote for giving them any such right, we are, therefore, in duty bound to decide the question.

He would ask gentlemen around him, whether they would not be equally justified in asking this convention to confer the same right upon the white women of this commonwealth? Were they not, he asked, as much entitled to our sympathy as the negro? Did they not feel as much interest on subjects of national importance? And, who were more willing to aid their countrymen, in the hour of sorrow or danger, and in the day of battle? We read in history of their heroism, and of the humane services they have rendered in the field, in dressing the wounds of the gallant soldier, or soothing him in his dying moments. Surely this class of our population, were as much entitled to vote as the negroes!

Shall we be told that the white females, our mothers! our wives! our sisters! and our daughters! would not feel as great an interest in the prosperity and the happiness of our country, as the male negro population. Should they, then, be placed upon a lower estimate in our community? Would they not, in every condition of our commonwealth, be the most valuable citizens? What has the negro cared in time of war, whose arms were victorious? His feelings were dead to every joy in the success of the American arms. He cared not whether the stripes and stars waved triumphant, or the blood red cross had been planted upon the flag of our country. Whilst with the white woman, her prayers by day and by night has been, that the God of battles would guide our countrymen unto victory, and when victory was achieved by our gallant sons, there rejoicings went up to the heavens, and when our country experienced defeat, there grief was loud and deep. Then, let it not be said, they were not as well qualified to exercise the right of suffrage as the male negro—let us not be told, that it is cruel injustice to deny this privilege to the negro—when lovely, woman with all her excellent attributes, does not claim or enjoy it?

We, perhaps, ought to give the right of suffrage to every human being; but, then, the interest and happiness of the whole people, required that it should not be thus given.

The gentleman from the city, who addressed the convention in the morning, in opposition to the amendment, and also his (Mr. M'C's) col-

league, who spoke yesterday, quoted largely from the Declaration of Independence, that "all men are created free and equal," &c. It became necessary to look at the intentions of the signers of the Declaration of Independence. It was well known, that at the period when that important document was penned, slavery was tolerated in almost all the North American colonies, and, notwithstanding the declaration the signers had made, many of them held slaves till the day of their death. He did not know, whether any of the signers on the part of Pennsylvania, held slaves, but he was under the impression, that those from New Jersey did. The fact was, that at that time, negroes were generally, regarded as a distinct race of beings, from the whites.

After a careful examination of the constitutions of the several states, he had found the word "white" inserted in fifteen of them, with a view of expressing a decision against blacks exercising the right of suffrage.

The gentleman from the city, (Mr. Biddle) who opposed the amendment in the morning, fell into an error in stating, that in the state of North Carolina, the negroes are allowed to vote.

Mr. BIDDLE, explained, that under the old constitution they did vote: and he believed, that under the existing one, they do not.

Mr. M'CAHEN resumed. He believed that no black man had ever been permitted to vote in North Carolina. He found it expressly declared in the constitution of that state, as amended, in 1835, that "no free negro, free mulatto, or free person of mixed blood, descended from negro ancestors to the fourth generation inclusive,—though one ancestor of each generation, may have been a white person—shall vote for members of the senate or house of commons."

The constitutions of the states of Maryland, Connecticut, Delaware, North Carolina, South Carolina, Indiana, Ohio, Tennessee, Illinois, Louisiana, Missouri, Mississippi, Alabama, Michigan, Arkansas, provide that negroes shall not be entitled to vote. With regard to Pennsylvania, he found that negroes do exercise the privilege of voting—whether they possessed the right to do so, or not—in several counties, viz :

In Allegheny, Bucks, Dauphin, Cumberland, York, Juniata, and Westmoreland, and he believed in many other counties. He considered it of the highest importance, and as a duty incumbent upon this convention to settle the question, whether or not, the coloured population of Pennsylvania, shall be allowed to exercise the privilege of voting at our elections. Such was the prejudice generally felt against the negroes, that it would not be safe for them—and the more particularly so, as the existing constitution was not explicit on the subject—at least, in a great many counties, to go to the polls. The attempt would probably be followed with violence, if not loss of life.

It, therefore, became the duty of this body to adopt such a provision, in reference to the right of voting, as would remove every doubt, and thus in all probability, prevent any breach of the public peace. His firm opinion was, that the people would not ratify this new constitution, if the convention did not so amend it, as to exclude negroes from the right of suffrage.

The negroes are a distinct people, and their sympathies and feelings are not with the whites, which was very natural. He was entirely opposed to the proposition of his friend from the city, (Mr. Meredith) which was, to give the right of voting to every negro, who should comply with certain conditions, and be the owner of property to a certain amount.

He Mr. M'C., disapproved of making any distinction between the poor and the rich—if the latter was entitled to the privilege, so was the former. But, he would not grant the right to any negro, no matter what might be his circumstances. He disapproved of the provision in the constitution of New York, and trusted that no such provision would be inserted in the constitution of Pennsylvania.

The gentleman from the city, (Mr. Biddle) who had addressed the convention in the morning, stated that a friend of his, who had travelled in England, and on the continent of Europe, had frequently heard this country reproached by Englishmen, for sustaining slavery.

Now, he (Mr. M'Cahen) freely admitted, that it was an unfortunate stain on our institutions; but, he would ask the gentleman who opposed the amendment that day, whether he would exchange the institutions of the United States, for those of Great Britain. He felt quite sure that the gentleman would not.

He, Mr. M'C., would say, that Englishmen had better correct the evils of their own government, before they undertook to comment on, and speak in a spirit of detraction, of the institutions of that of the United States. Unfortunately the question of abolition had been introduced into this convention, and he did not intend to say any thing in relation to it, because, it would be out of order.

The gentleman from Beaver, had refrained from giving an opinion on the subject, and stated, that it was doubtful whether the constitution, if amended in the manner that was proposed, would be adopted. He had argued, that there were some men, whose consciences were opposed to the constitution being thus amended.

He, Mr. M'C., however, was desirous that the word "white" should be inserted, and that the question whether the right of suffrage should be granted to the blacks, should be settled now, and for ever. His sincere belief was, that the amendment would be adopted, and that the negroes with perhaps a few exceptions, do not desire the right of voting. He might say, that so far as he had an opportunity of knowing what their real wishes were on the subject, they were, for the most part, opposed to any amendment of the constitution, which would give them the right of voting. They knew, perfectly well, that the prejudices of the white people of Pennsylvania against them, were such, that they would not benefit by it. He had heard it stated, though he knew not with what truth, that a coloured man once came within a few votes of being elected a member of congress, from the county of York. He would say, that if the negroes were permitted to vote in that county, and in Allegheny, and other counties, they ought to be permitted to vote in all, or none of the counties of Pennsylvania. He repeated then, what he had already so strenuously urged, that this question should be settled without further delay. The gentleman thought the question should be left for settlement in a provision for making future amendments to the constitution.

Now, he Mr. M'C. would not deceive the coloured people of the state ; he would not bring before them, nor the whites, a proposition which carried deception on its face, in holding out the idea that the constitution was to be corrected hereafter, instead of at once inserting the word "white" which seemed to be so generally desired by the people of Pennsylvania. Let us settle the question now that it is under consideration. He had been informed that other states of the Union had decided that negroes have not the right to vote.

The delegate from Lancaster, (Mr. Reigart) who last addressed the convention, had spoken of the embodied sensibility of the south—that it was acceding to them their rights, and that he was in favor of a Pennsylvania measure.

He, Mr. M'C. regarded the present, as a Pennsylvania measure, and it would be so considered, without any reference to the south. The poor human beings, who had been so feelingly described, as having been so much degraded, were, if he recollected any thing respecting their history, not at all degraded. Indeed, so far from it, they had been elevated in the scale of moral and intellectual condition, since they had left the shores of Africa, where they were held in a state of more absolute slavery, under their native princes, and not half so well treated, as they now were by their white masters.

Again : we had been told that the framers of the constitution of 1790, refused to insert the word "white." There could be no doubt, that the negro population was at that time very small to what it is now.

But, the delegate from Lancaster, who was now so very anxious to give the negro the right of suffrage, was not, he (Mr. M'C.) well recollected, so much inclined, on another occasion, to grant to men of his own complexion a right, which they ought to enjoy, and which the gentleman from Indiana, (Mr. Clarke) strongly and ably contended for.

The delegate had talked about wandering Arabs, and that he would not give the right of suffrage to men who led the lives of wandering Arabs, &c. Where was the gentleman's sympathy then ? He certainly had not manifested so much of it, as he did on the present occasion.

He, Mr. M'C. would say a word in reference to the effect of granting the right of suffrage to the coloured population, as regarded the laws of the United States. He would ask gentlemen, if they would give the right of suffrage to men who, if they should happen to cross the line, might be made slaves of in another state ? Would Pennsylvania assert her rights, and demand those citizens to be given back to her, who had been thus seized ? Would she not be bound to do it ? Does not the constitution of the United States, prohibit the carrying of the mail by people of colour ? Would not the granting of the right of suffrage to these people, be to create a class of citizens among us who, after all, could not enjoy equal rights and privileges with the rest of the community ? He was entirely opposed to granting them the right of voting.

The gentleman from Lancaster, in the course of his speech, had taken occasion to animadvert on the conduct of congress, in refusing to receive the petitions of the people, in relation to the abolition of slavery.

He Mr. M'C. fully agreed in the sentiments expressed by the gentleman, and regretted that they had adopted a course, which every friend to the right of petition must regret. He considered that the prayer of every individual, however humble he might be, was entitled to be heard and treated with respect. But, he conceived it to be no reason why this convention should not insert the word "white" because congress had thought proper to act as they had done. It was no reason why we should do wrong, merely in order to show our dissatisfaction of the conduct of congress. He would warn gentlemen to take care what they did, and to look to the consequences. If, however, they should result unfortunately, he would regret it; but he would have the proud consciousness and satisfaction of having performed his duty.

He would have the qualifications of suffrage plainly inserted in the constitution, and leave nothing to the decision of the supreme court, or any other tribunal, except the tribunal of the people in their sovereign capacity. He would not leave a matter of so much importance as this to any assessor, inspector or judge of election.

It had been said by a gentleman on this floor, the other day, that but few persons of colour ever exercised the right of suffrage in this commonwealth; that none ever were assessed or came forward to the polls, except those who held property. He would tell gentlemen, however, that they had better not deceive themselves with this idea. Let the negroes but be satisfied that they have a legal and constitutional right to vote, they will repair to the polls and take sides in all your political controversies; and in many of them they might have the casting vote. Yes, sir, they would be among your citizens in all your public elections, jostling and elbowing them on every side.

Well, sir, are these people entitled to the exercise of this sacred right—the right of suffrage? Are they called upon to defend the country in time of war, or to contribute to its support by the payment of taxes in time of peace? And while they are not subject to any of the burdens of government, they enjoy its protection.

There had been doubts in the minds of many election officers on this subject, and it was proper that these doubts should be removed. It was an appropriate matter for this convention to decide, and let it decide it, and let this vexed question be laid before the people for their judgment and final decision.

Mr. CUMMIN said, that the question under consideration, was on the motion made by a gentleman from the county of Philadelphia, to insert in that clause of the constitution in relation to the right of suffrage, the word "white." There had been a great deal said on this subject on both sides of the question by different gentlemen, but, in his judgment, none of them had laid the foundation on which the whole fabric ought to be erected.

There is not a member of this convention but must admit that slavery has existed ever since there was any organized society. If then, this was the case, as he was prepared to show, where was the necessity of all this kind of argument which we have had? It had been contended by some gentlemen that these people of colour, under the constitution, were entitled to all the rights and immunities to which white citizens were entitled. He

would ask gentlemen, however, where they got the authority for such an assertion as this? He had before given his views on this subject, and would not now go into it in detail, but he would ask the learned gentleman who contended that people of color were in possession of all the rights of other citizens, where they found any such doctrine as this in the constitution of 1776 or of 1790?

He would refer all those gentlemen who contended for this right, to the constitutions of Pennsylvania and of the United States, where it was clearly laid down, in his judgment, who were *citizens* of the United States, and by the latter constitution, these people of color are wholly excluded.

He would call the attention of the gentlemen to the following language, in the first article of the constitution of the United States, and then ask them if these people of color were not excluded :

“ Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians, not taxed, *three-fifths of all other persons.* ”

He would ask learned gentlemen who was meant by these *three-fifths*? Of what part of the community are they composed? Here they are pointed out clearly, and in a manner that no one can mistake. Three-fifths of the five parts necessary to form a representation are added in the southern states to make up a proper ratio, and if this was not the case, the southern states would fall far short in their proper representation in the congress of the United States. It seemed to him to be as plain as any thing could be, that these people were excluded by all our constitutions, yet some of the most learned men in this hall seemed to have a different opinion, and to entertain doubts on the subject.

He would next refer to the law of 1780, which freed the people of colour of Pennsylvania from slavery and servitude, which had been referred to by many gentlemen as conferring upon these people all the rights of free white citizens. It was true that that act did free the people of colour of this state from servitude; but it was not true that it conferred upon them any particular power. There was nothing in it that gave them the right of electing or of being elected; and this being the case, so far as this law was concerned, they could not enjoy this right.

Well, what was the situation and condition of these people before that time? Why, sir, special laws were passed with reference to them, defining their punishments, which showed most clearly that they were not on an equal footing with the other citizens of the state. This being the case, why was it that all the constitutions of the state were silent if these people had been deprived, and it was intended afterwards that they should enjoy the right of suffrage?

It seemed to him that the only reason was because it never was intended by the framers of those constitutions that they should enjoy this right. It never crossed the minds of the framers of those constitutions, that these people should be entitled to this right, because they are as silent as the grave upon the subject.

It never was contemplated that these people should have an equal right with the white citizens of the commonwealth, in all social and political relations. If the negroes were citizens, as had been asserted by some gentlemen, how did it come that they were not permitted to exercise all the rights and privileges of other citizens—of electing and of being elected to all the offices of trust or profit in the state? Was this ever the case? Were they ever permitted to come into your legislative halls? Were they ever permitted to enter a jury box? Were they ever allowed to hold any office, civil or military, in the commonwealth of Pennsylvania? Were they ever governed by the same laws which governed the white citizens? No sir. The oath of even a black man never would convict a white man. They were not permitted to give evidence in courts, and in no one way did they ever enjoy equal privileges with free white citizens.

Now, sir, if these people have never enjoyed the right of being elected to offices of trust or profit—if they have never been permitted to enter a jury box—if they have never been allowed to give evidence in court against a white man, how is it that these learned men can contend that they were entitled to the right of suffrage under the old constitution.

Very great apprehensions seemed to be entertained by some gentlemen in relation to this question, and some had expressed their fears, lest blood might be shed, if this question was not determined in a particular way. In relation to this however he had but little fears; but if it was as stated by these gentlemen, was it not a powerful argument in favor of the action of the convention upon the pending amendments? Would it, on that ground, not be right that the convention should adopt or reject the amendment, and have some definite action upon the question, so that it might be settled beyond all cavil, dispute and doubts. If excitement had been created, and now existed, in relation to this matter, it was the best argument in favour of early action upon it. If excitement and discontent had existed, and we leave this question now undetermined, there will be nothing but clamor and contention and bloodshed at every election ground. Then sir, this is the proper time to try and settle this question. Let us now either take the black man into our political society, or turn him out, and put this vexed question at rest for ever: until this is done, we will be continually harrassed by the agitation of the question, and if it is not done, in all probability, serious consequences may arise from it. Slavery was no new matter in the world, and when we came here to frame a new constitution for the people, and define and determine upon doubtful points in the old instrument, we did not come here to determine any thing in relation to slavery in other places.

The Supreme Being, who had created us all, had made some bond and some free men, and he had declared that some should be the servants of servants to the end of time. He (Mr. C.) could prove from the best authority—from the sacred writings which lay on his desk before him—all that he had said. The gentleman from the county of Philadelphia had referred to both sacred and profane history in support of his argument, and he dwelt with particular emphasis on some of the writings of Doctor Franklin who had contended for the rights of these people of colour. He would, however, ask the gentleman if this was the doctrine of Franklin, how it happened that this same Franklin was a member of the convention which framed the constitution of the United States, and there agreed

to exclude these people, notwithstanding all his influence? Why was it that this same Franklin had not there introduced a provision, declaring that there should be no distinctions between colours in this country? The gentleman need not refer to any opinion of Franklin's on this subject, after this was known; and as to slavery, it was useless for gentlemen to talk about an institution that had existed so long.

We find that shortly after the deluge, Noah became drunk with wine—

The CHAIR reminded the gentleman that it was not in order now to discuss the question of slavery.

Mr. CUMMIN resumed. It was far from his intention to vary from the rules of order adopted by the convention, but it seemed to him that if he was out of order, that others had gone equally far out of order; but he was coming to a point that could not be disputed or denied. In the introduction of his remarks, he had told gentlemen that he intended to lay a sure foundation to his argument, and to show the rise and progress of slavery from an authority which no one could gainsay, and if this was not done, we knew nothing of the question before the convention. He was compelled to sustain his argument, to introduce extracts from sacred history.

The Chair had permitted the introduction of profane history, and if this was done without its being decided out of order, he would ask the convention if it was out of order to introduce this sacred book—the Bible? If he was deprived of this by the Chair, it was vain for him to pursue the argument further.

The CHAIR would state that he had not refused to permit the gentleman to introduce any extract from the sacred writings, which had a bearing upon the subject, but he had intimated that going back to the deluge, and introducing the question of slavery, was not strictly in order. If, however, the convention was disposed to permit it, the gentleman might proceed.

Mr. CUMMIN resumed. Well if he was permitted to go on, he could show from the best authority where this matter of slavery was first introduced, what course it had taken and where it was now. In relation to this constitutional matter which had been so much talked of, it resolved itself entirely into a matter of fact. The simple question was—did they ever enjoy the right of suffrage? Was it ever secured to them by any of our constitutions? No sir—they never enjoyed it—they never had, and because they never had it, they were not now entitled to it—because, if they had had it, they would be now entitled to it beyond all dispute. Well, sir, with regard to the origin of slavery, he would read a few passages from the sacred volume. Mr. C. then read the following passages.

“The sons of Noah that went forth from the ark, were Shem and Ham and Japheth: and Ham is the father of Canaan. These are the three sons of Noah, and of these are the whole earth overspread. And Noah began to be an husbandman, and he planted a vineyard, and he drank of the wine, and was drunken, and he was uncovered within his tent; and Ham, the father of Canaan, saw the nakedness of his father, and told his two brethren without; and Shem and Japheth took a garment, and laid it

upon both their shoulders, and went backward, and covered the nakedness of their father; and their faces were backward, and they saw not their father's nakedness. And, Noah awoke from his wine and knew what his youngest son had done unto him; and he said, cursed be Canaan, a servant of servants shall he be unto his brethren; and he said, blessed be the Lord God of Shem; and Canaan shall be his servant. God shall enlarge Japheth, and he shall dwell in the tents of Shem; and Canaan shall be his servant."

Here said Mr. C. is the origin—here is the commencement of slavery. From this has it sprung—from this has it spread, and in consequence of this does it now exist, to a greater or less extent, throughout the whole world. From this sir, has the institution of slavery sprung, and it will continue until the Almighty see proper to alter it.

Here (said Mr. C.) we see the origin of slavery, and this was not the only place where we found an evidence of slavery in the sacred volume. The children of Ham were to serve and to be servants and servants they were afterwards, as he could show. We find it recorded in the seventeenth chapter of Exodus, that God said, he "will give unto thee (Abraham) and to thy seed after thee, the land wherein thou art a stranger, all the land of Canaan, for an everlasting possession; and I will be their God. And God said unto Abraham thou shalt keep my covenant therefore, thou and thy seed after thee, in their generations. This is my covenant which ye shall keep between me and you, and thy seed after thee; every man child among you shall be circumcised; and ye shall circumcise the flesh of your foreskin and it shall be a token of the covenant betwixt me and you, and he that is eight days old shall be circumcised among you, every man child in your generations, he that is born in the house, or bought with money of any stranger, which is not of thy seed. He that is born in thy house, and he that is bought with thy money, must needs be circumcised."

As the other was the origin of slavery, so was this the first purchase which was made with money. This was sufficient evidence that the Supreme Being himself recognized and approved the institution of slavery at that time; but there were many other evidences of it to be found in the sacred writings. Yes sir, there are more proofs to be found, that those people were to remain bondmen forever. The Lord has provided redemption for some, but for those people no redemption is ever provided. Mr. C. then read in support of his argument the following passages from the twenty-fifth chapter of Leviticus.

"If a man purchase of the Levites, then the house that was sold, and the city of his possession shall go out in the year of jubilee, for the houses of the cities of the Levites are their possession among the children of Israel; but the field of the suburbs of their cities may not be sold, for it is their perpetual possession. And if thy brother be waxen poor, and fall in decay with thee; then thou shalt relieve him: yea though he be a stranger or a sojourner; that he may live with thee. Take thou no usury of him or increase; but fear thy God; that thy brother may live with thee. Thou shalt not give him thy money upon usury, nor lend him thy victuals for increase. I am the Lord thy God which brought you forth out of the land of Egypt, to give you the land of Canaan, and to be

your God. And if thy brother that dwelleth by thee be waxen poor, and be sold unto thee; thou shalt not compel him to serve as a bond servant. But as an hired servant, and as a sojourner, he shall be with thee, and shall serve thee unto the year of jubilee. And then shall he depart from thee, both he and his children with him, and shall return unto his own family and unto the possession of his father, shall he return. For they are my servants which I brought forth out of the land of Egypt; they shall not be sold as bondmen. Thou shalt not rule over him with rigor, but shalt fear thy God. Both thy bondmen and thy bondmaids, which thou shalt have, shall be of *the heathen* that are round about thee; of them shall ye *buy bond men* and bond maids. Moreover, of the children of the strangers, that do sojourn among you, of them *shall ye buy*, and of the families that are with you, which they begot in your land: and they shall be *your possession*. And ye shall take them as an inheritance for your children after you, to inherit *them* for a possession, *they shall* be your *bondmen forever*, but over your brethren the children of Israel, ye shall not rule one over another with rigor. And if a sojourner or stranger wax rich by thee, and thy brother that dwelleth by him wax poor, and sell himself unto the stranger or sojourner by thee, or to the stock of the stranger's family; after that he is sold, he may be redeemed again, one of his brethren may redeem him."

He could go on and give texts till the adjournment, but he would not take up the time of the convention. The word "white" seemed obnoxious to many great men, who were distinguished by their knowledge and ability. Here are twelve states which enact that none shall elect, but free white males. None other shall have the privilege of voting at elections. The book of constitutions would shew this to be the case. If the question were not settled now, the consequence would be that we shall have wars and rumors of wars.

Let gentlemen collect one hundred and thirty-three elected by the blacks and there are five hundred spectators. The people, who never expected such a thing, would become excited and would make their vengeance felt. There never was a question better understood, or on which the opinions of the people were more united, than they are on this. These coloured people knew their own degradation, and never put themselves forward. There is a sect at work, under the pretext of improving their condition, which will plunge this country in ruin. He cared not who heard him, when he had the God of Heaven and the truth on his side. There is not one of us that is not descended from an European stock, yet we are against foreigners and naturalization, and would exalt these colored people above them. Most vile and unnatural is this. How have we seen it published in the newspapers that foreigners should not have any privileges? Now we are alive for the poor blacks, and would do any thing for them. Yet we would do any thing to deprive the poor white man of his vote, in this glorious land, because he is not possessed of the same fortune with those above him. He would now desist from troubling the convention any longer, believing that in this body there was good sense and honesty enough to ensure the passage of the amendment.

Mr. BROWN, of Philadelphia county, rose to make some remarks. At this late hour, he would not detain the committee long. It had been said, correctly that this discussion was of an exciting character; and, we could

see, by the numbers of those who had honored us with their attendance during its progress, that there prevailed out of doors a great excitement in relation to it. Yet the discussion had been carried on within this hall, with great calmness and equanimity of temper. He considered that, thus far, the discussion had worn that calm and deliberate aspect which was due to its importance.

He trusted that this would continue to be the case. He regretted to see something like excitement in the gentleman from Lancaster, but it was happily confined to himself. It was a question which ought to have much serious consideration. It is our business to make a constitution for future ages. We are not to construct it for those who are to come a hundred years after us, or who have lived a hundred years before us, but for ourselves, according to our own views, and those of no other persons. We have to introduce provisions which will be found good remedies for what is considered injurious now.

Gentlemen say, they would prefer to leave this for their constituents to determine. He would not agree to do so. What he had to say on the subject, he would say in the convention. He did not doubt the honesty of gentlemen who took this course, but he did doubt the sincerity of those who by indirect means, sought to prejudice the question. Every gentleman owes it to the negroes to say if he is for, or against them : and, this is the great question, and what gentleman should desire to throw it back upon his constituents ?

A judge, in Luzerne, had decided, that the negroes are not entitled to vote. A gentleman near him, from Adams, thought differently. Here there was a collision of legal authorities on the subject. It was not our duty to reconcile these differences ; and, he should feel it to be his duty, and that which he owed to the citizens who expect a decision of this question, to speak freely and explicitly to it. He invoked gentlemen to look at the attitude in which Pennsylvania stood, and at the condition of the negro race in the West Indies and everywhere. Can a free negro enter any of the states ? In most of them, they are excluded. It is Pennsylvania only, which is the recipient of all of them, the low as well as the high. Those who are deemed unworthy to live in other free states, are allowed a residence here.

Are we, as Pennsylvanians, prepared to admit this as the basis on which our representation is to rest ? He asked gentlemen to pause and reflect on this question ? He asked them to say if they would be willing that it should rest on these poor and degraded beings, as they were called by Mr. Van Buren, and as every man here views them to be. Would any man place the poorest white man, who goes to the polls with the highest, and deposits his vote as fearlessly, on the same footing with the negro ? Would the poor and degraded negro look as much to the interests of the commonwealth ? Did any one entertain the belief that the negro should be raised to the level of the poorest man who was fit to enjoy and exercise the rights of sovereignty ?

He had no prejudices against the negro on account of colour. He had eaten and drunken with them. He was willing to take the hand of a coloured man—an honest wood sawyer ; but we have to look to the coloured

race, as one marked by God and nature as distinct from that to which we belong. We do not degrade them by acting on this distinction. Did it degrade the females, when the state of New Jersey took from the ladies the right to vote ?

Representation and taxation went together, and no man had a right to vote, who did not pay his portion of taxes. A man must be twenty-one years of age, before he can have a right to vote. While these disqualifications were imposed on white citizens, the negro had no right to consider the refusal to admit him to political rights, a degradation. It is in obedience to the natural order of things, that we make a division between distinct species of men.

In the function of government, we are bound to look, not to the interests of a part, but to the welfare of the whole ; and, the negro is free to select a country for his residence where he can enjoy the same political privileges which white citizens possess here. The gentleman from Lancaster had referred to the case of a high officer of government, the second in the gift of the people, marrying a black wife, and had asked if she would be received into society, if he were to bring her here ? If a gentleman took a negro into domestic association with him, he would be held as degraded in the estimation of his neighbors, and so, on a large scale, the degradation would be the same as in the case of an individual who filled a less space in the eye of the world. Who was there among us who would desire to see any of the fair faces, with the presence of which we had been honored to-day, in this hall, bound for life, to any of these black spirits ?

Are we to do it ? Let us pause before we take a step of that kind. Let us see what rights they have. He would go with those who would go farthest to protect them in their lives, their property and their personal liberty. In this community the negro was equally protected with the white man, so far as concerned his person and property. He had his protectors and defenders. He found judges and juries always ready and willing to hear his complaints and to redress his wrongs. But, here we ought to stop, for it was neither our interest, nor that of the negro, that we should grant him the right of suffrage. It would not add to his happiness, nor tend to promote greater harmony between the whites and the blacks. The contrary, would most assuredly be the consequence. The language that we should hold in regard to the blacks should be this : We do not wish you to come here ; it is not to our interest, nor to yours, that you should inhabit the same soil, mingle in the same social circles, and we will not invite you here. We will place a few barriers between you and us. We will offer you a premium to go elsewhere, for this is not your home.

He (Mr. Brown) would offer the blacks some inducements to leave us, and go to a climate and country, in which they would be comfortable and happy, and not be degraded as they are now, for degraded they certainly are. This was the sort of language that should be held to the blacks. Who, among us, dare brave popular feeling, and place them on a footing with ourselves ? Who, among us entertaining the highest opinion of their capacity and intelligence, would venture to place them on an equality with themselves—to bring them to their tables, and, in fact, to permit them to participate in all the private and social relations of life ?

Let the advocates of negro suffrage—of those who are for giving the blacks equal rights, look at home, and reflect on what would be the consequence. Let them shew that they themselves have no prejudices against the negroes, and that the negroes have none against them. He could scarcely listen, with patience, to many of the remarks that had been made in favor of granting the right of voting to the negroes. The agitation of this question was only holding out a delusive hope, which, perhaps, could never be realized.

The negroes had come here and asked this convention to give them this right. Such a request could not be entertained for a moment. They were not fit to exercise the right of freemen, at present. Let us leave this question to the future amendments that may be made to the constitution—to those who may hereafter believe them to be fit to enjoy social equality.

He had no doubt that the sense of justice which characterized the state of Pennsylvania would accord to them that right, when it was ascertained, beyond all question, that they could exercise it without injury to the other portion of the people. Did the blacks fear that the right of suffrage would not be conceded to them, or why did they ask it now? They certainly could not be afraid to trust the people to grant it when they should have increased in numbers, intelligence and wealth.

He would now say a few words in regard to the provision, which had been cited by the gentleman from the city, (Mr. Meredith) as being contained in the amended constitution of New York, requiring that a negro must be worth two hundred and fifty dollars, before he can be permitted to vote. Now, he (Mr. B.) would contend that if a man was to have the right to vote at all, that right ought not to depend upon what he was worth. If one was entitled to exercise the right, they were all entitled. If a man was educated, although he might be poor, yet his claim to vote was as strong as that of the wealthy man. Was a man to be rejected because he happened to be so unfortunate as to be poor. He (Mr. Brown) would make no such unjust distinction. He himself knew negroes living in the county of Philadelphia, who were fully as competent to exercise the right of voting as any man in the city or county of Philadelphia.

But, the moral condition, the colour, the degradation which attached to the race, were all circumstances which had created a strong prejudice against the blacks. It was, on this account, therefore, that he would vote against giving them the right of voting. Another of the propositions that had been introduced in reference to this question was to give the legislature the power of deciding when the blacks should be permitted to go to the polls. He could not give his sanction to any such provision. It remained for the people to say whether they would give the right, or not. They were the only tribunal to settle a question of this kind.

The gentleman from Lancaster (Mr. Reigart) had given utterance to sentiments which he (Mr. B.) had never expected to hear within these walls. He must say that he heard them with regret. The gentleman had made appeals to the party politics of the day, and adverted to and commented on, the course which had been pursued by distinguished political characters.

He (Mr. B.) thought all this was unnecessary and uncalled for. He (Mr. B.) trusted that delegates would look only to the policy of Pennsylvania and do what they deemed best to promote her best interests, without paying any regard as to what might be doing in the southern or any of the states of this Union. It appeared to him as if it were almost impossible for this body to dispose of any question that came before it, unless party politics were introduced. Nothing could be settled—no matter how important it was, unless the machinery of party was brought in contact with it.

The gentleman would have us put ourselves in an attitude of defiance to the southern states, instead of doing all that lay in our power to quiet the apprehensions and alarm which the mad schemes and conduct of northern abolitionists had created among them! The gentleman would not have the constitution amended, as was proposed, lest the south should imagine they had, by their threats, induced us to make the amendment! What, were we to place ourselves in open defiance to the south? The gentleman wanted this question settled. How? By granting the right of suffrage. Would he open the door to abolition? Would he have the people of the south emancipate their slaves forthwith? The gentleman was under the impression that to insert the word "white" would be construed by the south as a triumph of southern principles in Pennsylvania!

He maintained that the members of this convention had nothing to do with what might, or might not be thought, beyond the borders of the state of Pennsylvania, as respected their proceedings. Did the gentleman from Lancaster and others, who approved his sentiments, wish to dissolve the Union! Did they desire that the people of the south should emancipate their negroes in order that they might come upon our soil? What, he would ask, were the mad schemes which some gentlemen would support? To what did they tend?

He begged gentlemen to pause in their career, lest they jeopardized the fate of this Union, under which the people had lived happily and prosperously for more than fifty years. Would gentlemen dissolve it for the purpose of giving the negroes the right to vote? Would they, to accomplish that end, abolish slavery in the District of Columbia, and in the southern states? Let gentlemen look at home, before they undertake to interfere in the affairs of their neighbors. What constituted slavery? Was it that one man was obliged to labor for another? Every man was a slave until the truth made him free.

Let gentlemen go to that small place in Pennsylvania, which was put down in the record as containing two thousand four hundred and fifty negroes; let them visit the lanes and alleys of this city, and there they would find negroes—and no doubt there were many now within the sound of his voice—who were equally as much slaves in mind, as their brethren of the south. Gentlemen might find enough to do at home in instructing and enlightening the poor negro, without troubling themselves about breaking the shackles of those at the south. Let them prepare their own negro population to exercise the right of freemen, before they talked of giving them the right to exercise the elective franchise.

By arraying one state against the other, the abolitionists might succeed in accomplishing their atrocious ends, and at the same time, the dissolu-

tion of the Union. The north, it is true, might overpower the south : they had, perhaps, the numbers to do it. And, they might bring their negroes to our northern soil ; but, God only knew what would be the result of such an attempt.

But, he repeated, let gentlemen look at, and consider what is the condition of the negroes even in this free state. For himself, he would say that he would rather be a slave at the south than a free negro in Philadelphia, for he would be much better off. But, again, he would inquire whether gentlemen desired that we should array ourselves against the south ?

Did they wish to tear down our glorious stars and stripes, under which our fathers fought so bravely in the revolution ? Did our fathers ask the south to emancipate their slaves ? Was the question asked by those who fought at Saratoga, or at Monmouth, on whose plains the best blood in the land was shed ? He would ask, if the negroes of the south did not pour out their blood as freely as those of the north ? He trusted that the day was far distant, when the people of Pennsylvania would so far forget their duty to the Union, as to be guilty of any indiscretion which might break the links which bind this happy Union together. If the right of the negroes to vote was to be put in the scale against the union of these states, he feared not the issue.

But, while, as he had already said, it was our duty to protect, and also improve the moral and social condition of the negroes, we ought not to do anything that was calculated to endanger their safety. In the district, which he had the honor to represent, the coloured population amounted to between three and four thousand, and he entertained not the slightest doubt that the signal for them to attend and give their votes would be the signal for their destruction. Yes ! in twenty-four hours from the time that an attempt should be made by the blacks to vote, not a negro house in the city or county would be left standing.

Men have prejudices and passions, and they would exercise them. It was, therefore, the duty of legislators, to consult the public feeling, and not do violence to it by any of their acts. The question of whether we should or should not insert the word " white," was a question of state policy, and had nothing whatever to do with the abolition of slavery in the District of Columbia, or elsewhere. In conclusion, then, he could only express his sincere hope that the amendment of the gentleman from the county of Philadelphia (Mr. Martin) would be adopted.

On motion of Mr. MERRILL, of Union,

The convention adjourned.



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